



Standards of Attorney Conduct and Disciplinary Procedures
A Study of the Federal District Courts

Report to the Committee on Rules of Practice and Procedure

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Summary

The Judicial Conference Committee on Rules of Practice and Procedure is studying the effect of having multiple standards of professional conduct for attorneys practicing in the federal district courts. The Federal Judicial Center is assisting by reporting on the experiences of federal districts with local rules that govern attorney conduct, and procedures used by the courts to address alleged misconduct. Based on the published local rules of the federal district courts and the responses to questionnaires sent to each federal district in April 1997, we have made the following findings:

I. Local rules governing attorney conduct in the federal district courts:

- Eighty-nine federal districts (95% of all districts) have a local rule informing attorneys practicing before the districts' courts which professional standards of conduct they are required to abide by. Five districts do not have such a local rule.
- The local rules of 68 districts (76% of federal districts with attorney conduct rules) incorporate the relevant standards of the state in which the district is located. The local rules of eight districts (9% of federal districts with attorney conduct rules) adopt an ABA Model directly. The local rules of 12 districts (14% of federal districts with attorney conduct rules) adopt both the relevant state standards of the state in which the district is located and an ABA Model. One district adopts a unique standard of conduct that varies substantially from the ABA model rules and state standards.
- Twenty-one districts have adopted a local rule regulating attorney conduct identical or nearly identical to Model Rule 4(B) of the Model Federal Rules of Disciplinary Enforcement. By comparing the important components of Model Rule 4(B) with those found in the local rules of the other 47 state-based districts that are not identical or similar in language to Model Rule 4(B), we found that the rules of 35 districts (74%) contain language similar in meaning to two or more of the components of Rule 4(B).
- Although the local rules differ as to the source of the standards adopted, the important components of Model Rule 4(B) are also found in a substantial number of districts with model rule-based and combination model rule and state-based local rules. Two important components are (1) whether the district also adopts any amendments to the standards adopted by the rule and (2) whether the district explicitly preserves the right to prescribe any rule or adopt any modification different than or in addition to the standards adopted. However, whereas these provisions are found in the majority of state-based local rules (60% of local rules that adopt relevant state standards), they are incorporated in only a small number of the other districts (25% of either districts with model based-rules or districts with combination state-based and model-based rules).

- Some local rules explicitly identify exceptions to its adopted standards either by providing that the standards cannot “conflict with federal law” or by explicitly identifying provisions of the adopted standards that are not incorporated. Some rules provide that no subsequent amendments to the adopted standards apply unless expressly adopted by the court. And some local rules have provisions addressing whether the district’s local rule adopting a standard of conduct also adopts judicial or other agency interpretations of the standard.
- Based upon an average response rate of 75 districts, a total of 40 districts (53%) reported having experienced one or more of the following five problems: problems created by ambiguously drafted rules, federal courts incorporating standards of conduct not included in any rule, due process and vagueness problems, multiforum problems, and problems resulting from the promulgation by federal agencies of their own attorney conduct rules. However, when each of the problems are examined individually, a small minority of the districts reported their occurrence. Using the average response rate of 75 districts, 17% of all districts responding reported the occurrence of conflicts or confusion derived from ambiguous language in their local rule; 9% reported that attorneys practicing in their district were prevented from relying on the explicit language of their local rules because their court used external standards to interpret the districts; 8% reported experiencing complaints regarding lack of attorney due process caused, in part, by the vagueness of their attorney conduct rule; 9% reported having experiencing difficulties resulting from attorney conduct problems involving multiple venues; and only 9% of respondents reported that they had experienced problems due to conflicts between their local rules and rules of professional conduct adopted by a federal agency.
- Based upon a response rate of 78 districts for each category, 17 districts (22%) reported problems with their rules in one or more of the following five areas: confidentiality, communication with represented parties, lawyers as witnesses, candor towards a tribunal, and conflict of interest. However, when these reported problems are viewed in the context of all districts responding to this inquiry (4% of all districts responding reported problems with confidentiality; 17 % of all districts reported problems with communication with represented parties; 4% with lawyers as witnesses; 8% with candor towards a tribunal, and 6% reporting problems with issues involving conflict of interest), with the exception of communication with represented parties to a limited extent, these specific ethical standards do not present a problem for most federal districts.
- The majority of districts do not support having the same rules governing the professional conduct of attorneys in all federal district courts. Out of 79 districts that responded, 24 (30%) indicated that they would be in favor of a national rule; 53 respondents (67%) did not support a national rule, and two had no opinion.
- The majority of districts not in favor of national uniformity do not support, as an alternative, having the same rules governing the professional conduct of attorneys with regard to the issues of confidentiality (73% opposed), communication with represented parties (71%

opposed), lawyers as witnesses (75% opposed), candor towards a tribunal (65% opposed), and conflict of interest (73% opposed).

II. Attorney discipline in the federal district courts:

- Eighty-eight federal districts (94% of all federal districts) have a local rule containing some type of procedures for the discipline of attorneys, and six do not have such a local rule.
- Relying on information in the local rules and assuming that all attorney conduct matters are handled by each district according to the procedures in the rules, we can make only the following definitive statements: (1) districts providing the judicial officer with many options and wide discretion for choosing among them for addressing complaints of attorney misconduct are in the overwhelming majority; (2) districts handling attorney discipline matters exclusively within the district or exclusively referring the matters outside of the district with no provisions for disposing of the matter within the district are a minority.
- To obtain a better sense of the actual practices followed in the districts, the respondents were asked to indicate the approaches to attorney conduct that were used by the district and the approach most frequently used by the district. Of the 73 districts responding, the procedure they reported as using most frequently (34 districts or 47% of all districts responding) was referring the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. In order of decreasing popularity, 11 districts (15% of all districts responding) reported referring the matter to a panel or group of judges within the district; eight districts (11%) refer the matter to a single judge within the district; 7 districts (10%) appoint an attorney to investigate and present the matter to the federal district court; 6 districts (8%) refer the matter to a panel or committee of attorneys in the district for investigation and presentation to the federal district court; 6 districts (8%) refer the matter to the United States Attorney for investigation; 6 districts (8%) handle the matter another way (all reported disciplinary matters are handled within the district); and 4 districts (5%) appoint the group or agency charged with enforcing state ethical standards to investigate and present the matter to the federal district court.
- Out of the approaches that the districts reported as using most frequently, 34 of these approaches (41 % of all approaches reported used most frequently) referred the disciplinary matter outside of the district court for investigation and final disposition; 39 of these approaches (47% of all approaches reported used most frequently) investigate and arrive at a final disposition of the complaint within the district court; and 17 of these approaches (20% of all approaches reported used most frequently) both send the complaint outside of the district court for investigation and within the district court for final disposition. From this comparison, we observed: (1) The approach slightly favored by the largest number (47% of all approaches reported as used most frequently) of all responding districts is to address the attorney misconduct matter within the district court, both for investigation and final

disposition; (2) The majority of all responding districts (61% of all approaches reported as used most frequently) prefer to refer the investigation of attorney misconduct allegations outside of the district court; (3) The majority of all responding districts (67% of all approaches reported as used most frequently) favor handling the final disposition of the matter within the district court.

- The number of complaints or allegations of attorney misconduct that occur within the district court are small. In calendar year 1996, the median for a range of zero to 32 complaints received by the districts was 7.2, and the median for a range of zero to 32 complaints on which formal action was taken was 7.

I. Introduction¹

The Judicial Conference Committee on Rules of Practice and Procedure is studying the effect of having multiple standards of professional conduct for attorneys practicing in the federal district courts. The Committee requested the Federal Judicial Center to assist by preparing a report on (1) the experiences of federal districts with local rules that govern attorney conduct, and (2) procedures used by the courts to address alleged misconduct. This report is based on the published local rules of the federal district courts and the responses to questionnaires sent to each federal district in April 1997. We sent each district two questionnaires. The first, addressed to the district clerk, asked about the current status of pertinent local rules, the history of the rules, and the frequency of attorney misconduct complaints. The second, addressed to the Chief Judge, or other judicial representative identified as familiar with the rules and issues, asked about the districts' experiences with the rules and procedures relating to attorney conduct and discipline.

Section II describes the current status of local rules governing attorney conduct in the federal district courts. These rules are categorized according to the source of the standards the district has adopted. In addition, the language and key components of these rules are compared to those of Model Rule 4(B) of the original 1978 Model Federal Rules of Disciplinary Enforcement. Also, Section II reports the districts' responses to inquiries concerning problems experienced with the overall approach of their rule and with specific ethical standards such as those governing confidentiality, communication with represented parties, lawyers as witnesses, candor towards the tribunal, and conflict of interest. This section also reports the responses to questions about the need for uniformity of rules governing the professional conduct of attorneys.

Section III describes the current procedures used by federal courts to address attorney misconduct matters. First, the districts' local rules that establish procedures for handling complaints of alleged misconduct are examined. These rules are loosely grouped based on the options the rule provides for the disposition of original allegations of misconduct. As will be explained in greater detail in this section, the manner in which districts are currently handling attorney misconduct allegations cannot accurately be determined from their local rules because the majority of these rules provide several procedures from which the court may choose, and some even permit the court to dispose of the matter in any other manner deemed appropriate but not described in the rules. Therefore, the questionnaires asked the districts to report the procedures they use "typically" and "most frequently." Section III also reports the districts' satisfaction with and problems experienced with the procedure they reported using most frequently. Finally, additional information is presented about districts that typically refer attorney disciplinary matters to state disciplinary authorities and districts that typically refer disciplinary matters to committees or panels created within the district.

II. Local Rules Governing Attorney Conduct in the Federal District Courts

¹ Special acknowledgments are made to James B. Eaglin, Judith A. McKenna, David Rauma and Elizabeth C. Wiggins for their assistance throughout each stage of this study.

A. Analysis of Current Local Rules

1. Present Status and Categorization of Local Rules

All 94 federal districts verified the existence (or lack thereof) and content of their current local rules adopting standards of professional conduct for attorneys practicing before the districts' courts. Eighty-nine federal districts (95% of all districts) have a local rule informing attorneys practicing before the districts' courts which professional standards of conduct they are required to abide by. Five districts do not have such a local rule.²

The July 5, 1995 report to the Committee, "Local Rules Regulating Attorney Conduct in the Federal Courts", identified several types of attorney conduct rules that vary according to the source of the standards adopted.³ For purposes of analysis, this report uses a similar approach to categorize the current local rules:

1. State-based Rules⁴: The district's local rule incorporates the relevant standards of the state in which the district is located. The local rules of 68 districts (76% of federal districts with attorney conduct rules) follow this approach.
2. ABA Model-based Rules: The district's local rule adopts an ABA Model directly (either the ABA Canons of Professional Ethics (1908), the ABA Code of Professional Responsibility (1969) or the ABA Rules of Professional Conduct (1983)). The local rules of eight districts (9% of federal districts with attorney conduct rules) follow this approach (five adopt the ABA Model Rules, three adopt the ABA Model Code, and one adopts the ABA Canons).
3. Combination State and ABA Model-based Rules: The district's local rule adopts both the relevant state standards of the state in which the district is located and an ABA Model. The local rules of 12 districts (14% of federal districts with attorney conduct rules) follow this approach.

² All references to the districts' local rules and procedures are current as of April 28, 1997.

³ Daniel R. Coquillette, Local Rules Regulating Attorney Conduct In The Federal Courts 3-5 (July 5, 1995) (Report to the Committee on Rules of Practice and Procedure, Judicial Conference of the United States) [hereinafter July 1995 Report to the Committee].

⁴ *Id.* The July 1995 Report to the Committee further subdivides local rules that adopt state standards: (1) local rules that adopt state standards based on the ABA Model Rules of Professional Conduct (1983); (2) local rules that adopt state standards based on the ABA Code of Professional Responsibility (1969); (3) local rules that adopt the unique California Rules of Professional Conduct (different from both the ABA Rules and ABA Code). This report does not utilize these subdivisions.

The local rule of one district does not follow any of these three approaches. The local rule for the Northern District of Illinois adopts a unique standard of conduct that varies substantially from the ABA Model Rules and state standards.

Verification by the districts and categorization of the districts' local rules based upon the source of the standards adopted allows us to conclude that the overwhelming majority of federal districts (95%) have adopted professional standards of attorney conduct by local rule and the majority of these districts (76%) incorporate the standards of professional conduct adopted by the state in which the district is located. Table A-1 in the Appendix identifies the current local rule governing attorney conduct in each of the eighty-nine districts with rules and shows the five districts that do not have such a local rule. In addition, this table indicates which of the three previously defined approaches each district's local rule follows.

2. Rule 4(B) of the 1978 Model Federal Rules of Disciplinary Enforcement

In 1978, the Judicial Conference Committee on Court Administration approved the Model Federal Rules of Disciplinary Enforcement to be adopted on a voluntary district-by-district basis. Model Rule 4(B) provided:

Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility [or Rules of Professional Conduct] adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Code of Professional Responsibility [or Rules of Professional Conduct] adopted by this court is the Code of Professional Responsibility [or Rules of Professional Conduct] adopted by the highest court of the state in which this Court sits, as amended from time to time by that state court, except as otherwise provided by specific Rule of this Court after consideration of comments by representatives of bar associations within the state.⁵

Twenty-one districts⁶ have adopted a local rule regulating attorney conduct identical or nearly identical to Model Rule 4(B). Because Model Rule 4(B) incorporates the rules of professional

⁵ Model Rule (4) of the Model Federal Rules of Disciplinary Enforcement, as proposed by the Committee on Court Administration, Judicial Conference of the United States (1978). Bracketed language is commonly found in districts adopting this model rule in some form after adoption of the ABA Model Rules of Professional Conduct (1983).

⁶ D. Me., D. Mass., D. N.H., D. Vt., E.D. Pa., M.D. Pa., W.D. Pa., M.D. N.C., E.D. Va., W.D. Va., S.D. Ohio, E.D. Mich., S.D. Ill., S.D. Ind., E.D. Ark., W.D. Ark., D. Minn., E.D. Mo., W.D. Mo., D. Neb., D. Wyo.

responsibility adopted by the highest court of the state in which the district is located, these 21 districts are part of the group of 68 districts we have identified as having adopted a state-based rule. We examined the similarity between the rules of these 21 districts and the other 47 districts with state-based rules. To do this, we determined whether the rules of the districts contained one or more of the five distinct components of Model Rule 4(B). Those components are:

1. Subject to standards: Language defining who is subject to discipline for violation of the standards of professional conduct adopted by the district. Model Rule 4(B) applies its standards to “an attorney admitted to practice before this Court.”
2. Misconduct warranting discipline: Language defining misconduct and behavior warranting discipline. Model Rule 4(B) defines misconduct and behavior warranting discipline as “acts or omissions . . . individually or in concert with any other person or persons, which violate the Code of Professional Responsibility [or Rules of Professional Conduct] adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.”
3. Identification of standards: Language identifying the standard of conduct adopted by the district. Model Rule 4(B) adopts “the Code of Professional Responsibility [or Rules of Professional Conduct] adopted by the highest court of the state in which this Court sits.” Note that all of the eighty-nine attorney conduct rules in the districts were required to contain this component in order to be identified as a local rule establishing professional standards of conduct in this report.
4. Amendments to standards: Language indicating the district’s intention to also adopt any amendments to its standards which may be promulgated by the source of its standards. Model Rule 4(B) adopts standards of the highest state court “as amended from time to time by that state court.”
5. Exceptions to standards: Language explicitly preserving the district’s ability to prescribe any rule or adopt any modification which is different than or in addition to the standards adopted. Model Rule 4(B) adopts standards of the highest state court as amended by that state court, “except as otherwise provided by specific Rule of this Court after consideration of comments by representatives of bar associations within the state.”

Table 1 shows how often the components of Model Rule 4(B) are found in the 21 districts with rules similar or identical to Model Rule 4 (B) and how often the components are found in the state-based local rules of the other 47 districts. The component, identification of standards, is not

addressed in the table because all of the districts' rules contain language identifying the standards adopted by the rule. For each of the 68 districts with state-based attorney conduct rules, Table A-2 in the Appendix presents the components of Model Rule 4(B) found in each rule.

Table 1
Components of Model Rule 4(B) in State-Based Attorney Conduct Local Rules

	Components of Model Rule 4(B)			
	Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards
Local rules identical or similar to Model Rule 4(B) (21 districts)	21 (100%)	21 (100%)	21 (100%)	18 (86%)
State-based local rules not similar or identical to Model Rule 4(B) in language used (47 districts)	34 (72%)	20 (43%)	17 (36%)	23 (49%)

Almost by definition, three of the four components are found in the 21 local rules similar or identical in language to Model Rule 4(B); the fourth component is found in most of them. The various components of Model Rule 4(B) are also found in substantial numbers in the other state-based rules: two districts' rules contain none of the components of Model Rule 4(B); nine districts' rules contain one of the components; 22 districts' rules contain two of the components, 11 districts rules contain three of the components, and two districts' rules contain all four components. Thus, the rules of 35 districts (74%), with state-based rules not identical or similar in language to Model Rule 4(B), contain language similar in meaning to two or more of the components of Rule 4(B).

Table 2 below provides a comparison of the components of Model Rule 4(B) found in each of the three approaches to attorney conduct rules⁷: state-based local rules, model rule-based local rules, and combination model rule and state-based local rules.

Table 2
Components of Model Rule 4(B) in All Attorney Conduct Local Rules

⁷ The Northern District of Illinois' local rule, which does not adopt either of the three approaches to attorney conduct rules identified in this report, only contains the first two components of Model Rule 4(B)—identification of who is subject to the adopted standards and a definition of the misconduct which will violate adopted standards and warrant discipline.

	Components of Model Rule 4(B)			
	Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards
State-Based Local Rules (68 districts)	55 (81%)	41 (60%)	38 (56%)	41 (60%)
Model Rule-Based Local Rules (8 districts)	7 (88%)	6 (75%)	1 (13%)	2 (25%)
Combination Model Rule and State-Based Local Rule (12 districts)	12 (100%)	10 (83%)	3 (25%)	3 (25%)

Although the local rules differ as to the source of the standards adopted, the other components of Model Rule 4(B) are found in a substantial number of districts with model rule-based and combination model rule and state-based rules. Of the eight model rule-based rules, seven (88%) contain language similar in meaning to two or more of the components of Rule 4(B). For each of these eight districts with model rule-based attorney conduct rules, Table A-3 in the Appendix presents the components of Model Rule 4(B) found in each rule. Of the rules of the 12 districts with combination model rule and state-based rules, 10 (83%) contain language similar in meaning to two or more of the components of Rule 4(B). However, whereas provisions indicating whether the district also adopts any amendments to the standards adopted by the rule or provisions which explicitly preserve the districts' right to prescribe any rule or adopt any modification different than or in addition to the standards adopted are found in the majority of state-based local rules (60% of local rules that adopt relevant state standards), these provisions have been incorporated in only a small number of the other districts (25% of either districts with model based-rules or districts with combination state-based and model-based rules). For each of these 12 districts with combination model rule and state-based attorney conduct rules, Table A-4 in the Appendix presents the components of Model Rule 4(B) found in each rule.

3. Other Important Provisions in Attorney Conduct Rules

Besides the components of Model Rule 4(B), several other provisions found in attorney conduct rules are notable. As will be reported in section II, part B.1, ambiguity in the language of a district's local rule can result in conflict between, or confusion over, the applicable standards of conduct for attorneys practicing within a district. The presence or lack of certain provisions in a district's local rule may provide important insights into a district's experience with attorney conduct issues. One such provision indicates areas where a federal district court found it necessary to explicitly diverge from the standards adopted. Model Rule 4(B) adopts standards of the highest state court as amended by that state court, "except as otherwise provided by specific Rule of this Court after consideration of comments by representatives of bar associations within

the state.” Many districts contain similar language generally preserving the district’s ability to prescribe any rule or adopt any modification which is different than or in addition to the standards adopted. However, some districts’ attorney conduct rules more explicitly identify exceptions to its adopted standards. Six districts⁸ (four with state-based rules and two with ABA Model rule-based rules) have local rules that adopt standards with the exception that these standards cannot conflict with federal law (i.e., statutes, regulations, court rules or decisions or law). Furthermore, the attorney conduct rules of eight districts⁹ explicitly identify provisions of the adopted standards that are not incorporated. Seven of the eight districts with explicit exceptions in their rules have a state-based rule, while one district has a combined model rule and state-based rule. The state-based rules explicitly refused to adopt state ethical standards governing the following areas: public statements by counsel in a criminal case (one district); lawyer as a witness in both civil and criminal cases (one district); propriety of prior court approval for issuance of subpoena to attorney in criminal case (five districts); confidentiality of information (one district); and misconduct issues (one district). The combination model rule and state-based rule explicitly refused to adopt ethical standards governing ABA Model Rule 3.8(f) (prosecutor’s duty not to subpoena attorney in a criminal proceeding to present evidence about past or present client). These exceptions are presented in detail in the column “Exceptions to Adopted Rules” in Tables A-2 through A-4 in the Appendix.

Standards of attorney conduct, both state standards and ABA Modal Rules, are regularly amended or modified. The issue of whether a state’s local rule adopting a standard of conduct also adopts all subsequent amendments or modifications to those standards is addressed by some districts in their local rule. Rule 4(B) adopts standards of the highest state court “as amended from time to time by that state court.” This language indicates the district’s intention to adopt any amendments to its standards which may be promulgated by the source of those standards (i.e., the state court). Three districts¹⁰ have provisions providing for the opposite---no subsequent changes valid unless expressly adopted by court order. These exceptions are presented in detail in the column “Other Important Provisions” in Tables A-2 through A-4 in the Appendix.

Standards of attorney conduct may be interpreted by courts or other sources of attorney conduct standards. For example, state bars may issue opinions interpreting specific ethical standards. The issue of whether a district’s local rule adopting a standard of conduct also adopts judicial or other agency interpretations of its standards is addressed by some districts in their local rule. Five districts¹¹ with state-based attorney conduct rules explicitly state the district’s intention to follow judicial interpretations of their adopted state standards only by federal courts. Other districts¹² (five districts with state-based rules and three districts with combination model

⁸ D. N.J., N.D. Ohio, D. Alaska, N.D. Fla., D. Del., D. V.I. See also Tables A-2 and A-3 in the Appendix.

⁹ D. Conn., E.D. Pa., M.D. Pa., W.D. Pa., E.D. Va., W.D. Tenn., D. Haw., N.D. Ala. See also Tables A-2 and A-4 in the Appendix.

¹⁰ D. Conn., M.D. La., D. Utah. See also Table A-2 in the Appendix .

¹¹ D. Conn., E.D. N.Y., S.D. N.Y., D. Utah., N.D. Ga. See also Table A-1 in the Appendix.

¹² D. Alaska, N.D. Cal., C.D. Cal., D. Idaho, W.D. Tex., E.D. Cal., S.D. Cal., N.D. Okla. See also Tables A-2 and A-4 in the Appendix.

rule and state-based rules) explicitly state the district's intention to adopt judicial interpretations by any court to which the districts' adopted standards apply. These exceptions are presented in detail in the column "Other Important Provisions" in Tables A-2 through A-4 in the Appendix.

4. History of and Anticipated Changes to Local Rules Regulating Attorney Conduct

a. History

The responses received to inquiries regarding the history of the districts' local rules indicate that local rules adopting professional standards of conduct for attorneys started emerging in the districts in the early 1970s, but by the early 1980s only a small minority of districts had adopted them. However, over the next decade the districts gradually adopted professional standards by local rule, and today all but five districts have such rules. Respondents in 52 districts reported that there have been no changes in their standards since initial adoption of the local rule. Respondents in twenty districts reported at least one change in standards since initial adoption. Eighteen districts were not aware of the history of their current local rule regulating attorney conduct. Among the districts reporting a change in standards, six districts reported changing the approach adopted by their local rule from an ABA model-based approach to a state-based approach; two districts changed from a combined ABA model rule-based approach to a state-based approach; one district reported moving from state-based standards to ABA model-based standards; three districts changed from state-based standards to combination model rule and state-based standards; and one district reported adopting a state-based local rule governing attorney conduct after previously having no specific standards. Table A-5 in the Appendix describes these reported changes in standards in more detail. Many of the respondents were not able to provide information about the reason for the changes.

b. Anticipated Changes

The districts were asked whether they had any current plans to amend their present local rule either by changing the standards governing attorney conduct in their district or adopting additional standards. Of the 76 districts responding to this inquiry, only three districts reported having current plans for significant changes to their standards. The Southern District of Indiana is examining the possibility of adding a local rule that specifically encompasses the standards of professional conduct within the Seventh Circuit and the Standards of Civility adopted by the Seventh Circuit. The District of Colorado is considering eliminating the adoption of the Colorado Supreme Court Rules of Professional Conduct and establishing its own new rules of conduct for lawyers admitted to its bar. If it does so, the District of Colorado will share the Northern District of Illinois' distinction as a federal district with standards of professional conduct unique to the district. The Middle District of North Carolina is considering amending its current rule to

specifically adopt the final ethics opinions of the North Carolina State Bar that interpret and apply the Code of Professional Responsibility adopted by the North Carolina Supreme Court.

5. Districts Without a Local Rule Regulating Attorney Conduct

The five districts¹³ that reported having no local rule specifying standards governing attorney conduct reported no plans to adopt such a local rule in the future. Respondents for these districts reported no problems due to the absence of a local rule. However, most of them have informal standards or local rules that establish general guidelines for attorney conduct. For example, when attorney conduct issues arise, the Northern District of Iowa applies the Code of Professional Responsibility for Lawyers adopted by the Iowa Supreme Court and supplemented by the ABA Model Rules. The Southern District of Iowa and the District of North Dakota both have local rules¹⁴ that establish general guidelines for courtroom decorum and conduct that warrants discipline, but do not adopt any specific standards of professional conduct.

B. Problems Experienced by Federal Districts Due to the Overall Approach of Their Attorney Conduct Rule

The Committee identified five major problems related to the practical application of the variants of attorney conduct rules in the districts.¹⁵ These problems are those created by ambiguously drafted rules, federal courts incorporating standards of conduct not included in any rule, due process and vagueness problems, multiforum problems, and problems resulting from the promulgation by federal agencies of their own attorney conduct rules. Overall, based upon an average response rate of 75 districts for each of the five problems discussed below, a total of 40 districts (53%) reported having experienced one or more of these five problems with their attorney conduct rules. However, when each of these problems are examined individually as shown below, a very small minority of the districts reported their occurrence. The following five sections present the districts' responses to inquiries as to whether these problems have occurred in their district due to the approach adopted by their local rule regulating attorney conduct.

1. Problems Created by Ambiguously Drafted Rules

We asked districts: "Has ambiguity in the language of the rule resulted in any conflicts between, or confusion over, applicable standards of conduct for attorneys practicing within your district?" If so, the district was requested to indicate whether the conflict or confusion had resulted from any of the following:

¹³ W.D. Wis., N.D. Iowa, S.D. Iowa, D. N.D., D. S.D.

¹⁴ Local Rules for the U.S. District Court for the S.D. Iowa, Rule 83.2(f)-(h); Local Rules for the U.S. District Court for the D. N.D., Rules 79.1 & 83.2(B).

¹⁵ July 1995 Report to the Committee, at 11-32.

1. The local rule adopts an ABA model as its standard of conduct, but the rule does not specify whether the Model Rules of Professional Conduct or the Model Code of Professional Responsibility are the applicable standard.
2. The local rule clearly adopts the Model Rules of Professional Conduct as the court's standard of conduct, but the local rule does not specify whether the standard adopts the exact ABA version of the Model Rules, or the amended version of the state in which the court sits.
3. The rule prescribes multiple standards of conduct without indicating which controls.
4. The rule adopts the standards of the highest state court but does not specify what those standards are (e.g., a version of the Model Rules of Professional Conduct or the Model Code of Professional Responsibility).
5. The rule adopts the standards of the highest state court but does not indicate the force of state interpretations before and after the date of the local rule.
6. The rule adopts the standards of the highest state court but does not specify whether those standards include amendments to the rules adopted by the state court after the date of the local rule.
7. Other. Describe any other problems that have arisen in your district due to ambiguous language in your local rule.

Sixty-nine of the 77 districts (90%) responding to this inquiry reported no conflicts or confusion resulting from ambiguity created by the language of their attorney conduct rule; 13 (17%) reported the occurrence of conflicts or confusion derived from ambiguous language in their local rule.

Six of the 13 districts reported problems resulting from rules that adopt the standards of the highest state court but do not specify what those standards are. Five districts experienced problems because their rule adopts the standards of the highest state court but does not indicate the force of state interpretations before and after the date of the local rule. Three districts reported experiencing conflict or confusion because their rule adopts the standards of the highest state court but does not specify whether those standards include amendments to the rules adopted by the state court after the date of the local rule. Two districts reported experiencing conflict or confusion because their rule prescribes multiple standards of conduct without indicating which controls. One district reported experiencing conflict or confusion because their local rule clearly adopts the Model Rules of Professional Conduct as the court's standard of conduct, but the local rule does not specify whether the standard adopts the exact ABA version of the Model Rules, or the amended version of the state in which the court sits. In addition, seven districts reported experiencing "other" problems because of ambiguous language in their attorney conduct rule. Table A-6 in the Appendix describes the problems reported by the 13 districts.

2. Problems Created by Federal Courts Incorporating Standards Not Explicit In The Districts' Local Rules

We asked districts: “Are attorneys practicing in your district prevented from relying on the explicit language of your local rule because your district has ‘incorporated’ external standards into your local rules or utilized external standards not apparent in the rules themselves to interpret the rules?” If so, the districts were requested to indicate whether any of the following had occurred in their courts:

1. The local rule does not mention an ABA model, but your district has expressly incorporated an ABA model into your local rule governing attorney conduct.
2. The local rule does not mention an ABA model, but your district looks to ABA models to “interpret” local rules and resolve ambiguities, even though your district has not expressly “incorporated” ABA models into its local rules.
3. Other. Describe how standards not explicit in your local rule were used to decide an issue(s) of attorney conduct in your district and any problems that this created.

Out of the 71 districts responding to this inquiry, only seven (10%) reported that attorneys practicing in their district were prevented from relying on the explicit language of their local rules because their court used external standards to interpret the districts’ attorney conduct rules. Two of the seven districts reported that their district looks to ABA models to “interpret” local rules and resolve ambiguities, even though their district has not expressly “incorporated” ABA models into its local rules. Four districts reported “other” situations and problems caused by their use of external standards. For each of these seven districts, Table A-7 in the Appendix summarizes the nature of the problems reported by the seven districts.

3. Due Process and Vagueness Problems

Standards for attorney conduct must not be so vague as to not provide an attorney with sufficient notice of the prohibited conduct to meet constitutional due process guarantees. We asked districts: “Have complaints regarding lack of attorney due process arisen due to, at least in part, the vagueness of your district’s local rule?” If so, the districts were requested to describe the nature and extent of such complaints. Out of the 76 districts responding to this inquiry, only six districts (8%) reported experiencing such complaints. All of these complaints reported due process problems with the districts’ attorney discipline and reinstatement procedures. Table A-8 in the Appendix briefly describes the nature and extent of the complaints received by the six districts.

4. Multiforum Problems

We asked districts: “Has your district experienced any difficulties arising from an attorney conduct problem involving multiple venues such as conflicts between different state standards, between different district and circuit local rules, or between federal and state standards within your own district?” Out of the 76 districts responding to this inquiry, seven (9%) districts reported having experienced difficulties resulting from attorney conduct problems involving multiple venues. Most of these districts reported problems involving conflict between federal and state standards within their district, such as disagreeing with state’s interpretation of standards and the decision to impose discipline. Table A-9 in the Appendix briefly describes the nature and extent of the difficulties experienced by the seven districts.

5. Conflict with federal agencies promulgating their own attorney conduct rules.

We asked districts: “Has your district experienced any difficulties arising from conflicts between your district’s local rule and rules of professional conduct adopted by some federal agencies (such as the Department of Justice, the Securities and Exchange Commission, or the Patent and Trademark Office to name a few examples) to govern the conduct of their attorneys?” Of the 74 districts responding to this inquiry, seven (9%) districts reported that they had experienced problems due to conflicts between their local rules and rules of professional conduct adopted by a federal agency. Most of these districts reported problems with conflicting standards promulgated by the Department of Justice. Table A-10 in the Appendix briefly describes the nature and extent of the difficulties experienced by the districts.

C. Problems Experienced by Districts Due to Specific Ethical Standards: Identification and Frequency of Problems

The Committee has identified five categories of rules or ethical standards that appear to be implicated in most federal disputes involving attorney conduct¹⁶:

1. Confidentiality: issues analogous to those addressed in ABA Model Rule 1.6.
2. Communication with represented parties: issues analogous to those addressed in ABA Model Rule 4.2.
3. Lawyers as witnesses: issues analogous to those addressed in ABA Model Rule 3.7.

¹⁶ Daniel R. Coquillette, Study of Recent Federal Cases Involving Rules of Attorney Conduct (December 1, 1995) (Report to the Committee on Rules of Practice and Procedure, Judicial Conference of the United States) [hereinafter December 1995 Report to the Committee].

4. Candor towards the tribunal: issues analogous to those addressed in ABA Model Rule 3.3.
5. Conflict of interest: issues analogous to those addressed in ABA Model Rules 1.7, 1.8, 1.9, 1.10, 1.11.

Through the surveys, we attempted to determine whether the concentration of disputes in these areas resulted from problems with the controlling rule or standard (for example, lack of clarity or overbreadth). The districts were asked to identify the kinds of problems, if any, that they had experienced with the rules or standards in these five areas and any other area noteworthy to the district. Seventeen districts, 22 percent of the 78 districts responding to the inquiry, reported problems in one or more of the five areas. These districts were asked to indicate whether the particular ethical standard or standards identified as having created a problem(s) did so in at least one specific instance by meeting any of the following criteria:

1. not speaking to the alleged unethical conduct.
2. being unclear.
3. being too broad.
4. being too narrow.
5. being inconsistent with other standards of conduct (e.g., local federal rules in conflict with state rules, local federal rules in conflict with other federal agency rules).
6. Other. Please specify.

For each of the 17 districts reporting a problem, Table A-11 in the Appendix shows which category of ethics standards created a problem and the manner or manners in which each standard created a problem(s) in at least one specific instance. The districts were also asked to indicate the frequency with which these problems were experienced within the past two years. Their responses are also shown in Table A-11 in parenthesis following the listing of criteria violated by the problematic ethical standard.

The table below provides a summary of the responses of the 17 districts reporting a problem with one or more of the five areas of ethical standards.

Table 3
Problems Created by Specific Ethics Standards in the Federal District Courts

Ethical standard:	# Districts Reporting Ethics Standard Created a Problem:	# Districts Responding That Ethics Standard Created a Problem by:					
		not speaking to alleged unethical conduct:	being unclear:	being too broad:	being too narrow:	being inconsistent with other standards of conduct:	Other:
1. Confidentiality	3	1	1	1		1	
2. Communication with Represented	13	4	2	3	0	5	5

Parties							
3. Lawyers as Witnesses	3	1	1	1		1	
4. Candor Towards A Tribunal	6	2	3		2	1	2
5. Conflict of Interest	5	2	4	1		1	1

The most problematic area is “communication with represented parties.” This standard reportedly caused problems by being inconsistent with other standards of conduct (5 districts), not speaking to the alleged unethical conduct (4 districts), being too broad (3 districts), being unclear (2 districts), and for a variety of other reasons (5 districts). (See Table A-11 in the Appendix for a description of the “other” problems.) Issues involving candor towards a tribunal and conflict of interest created the second largest source of problems (65% combined), while lawyers as witnesses and confidentiality created the least (35% combined). However, when these reported problems are viewed in the context of all districts responding to this inquiry (4% of all districts responding reported problems with confidentiality; 17 % of all districts reported problems with communication with represented parties; 4% with lawyers as witnesses; 8% with candor towards a tribunal, and 6% reporting problems with issues involving conflict of interest), with the exception of communication with represented parties to a limited extent, these specific ethical standards do not present a problem for most federal districts.

D. National Uniformity

One of the questions before the Committee is whether a single set of rules should govern the professional conduct of attorneys in all federal courts.¹⁷ We asked the questionnaire recipients¹⁸: “Should all federal district courts have the same rules governing the professional conduct of attorneys?”

Out of 79 districts that responded, 24 (30%) indicated that they would be in favor of a national rule; 53 respondents (67%) did not support a national rule, and two had no opinion. Table A-12 in the Appendix presents the individual responses for the 79 districts answering this inquiry.

E. Selective Uniformity

An alternative to a national standard would be uniform national federal rules for attorney conduct only in certain key areas with state standards governing all other areas. We asked the 55

¹⁷ July 1995 Report to the Committee, at 38-40.

¹⁸ Questions regarding national and selective uniformity of standards were asked only of the Chief Judge or other identified judicial representative for the district.

respondents who said their district is not in favor of a national rule regulating attorney conduct in all areas: “Should all federal courts have the same rule governing the professional conduct of attorneys in the area of: confidentiality? communications with represented parties? lawyers as witnesses? candor towards a tribunal? conflict of interest?”

The following table presents an overview of the responses to selective uniformity for each category of ethical standards. See Table A-13 in the Appendix for the individual responses of districts in favor of uniformity for one or more of the areas of ethics standards. Close to three-fourths of the districts opposed to national uniformity are also opposed to uniformity of standards in each of the selected areas of ethical standards. In addition, among the candidates for uniformity, there is no one ethical standard significantly more favored by the districts over the others.

Table 4
Selective Uniformity of Ethical Standards in the Federal District Courts

Ethical Standard:	# Districts in Favor of Selective Uniformity	# Districts Opposed to Selective Uniformity	# Districts with No Opinion
1. Confidentiality	12 (22%)	40 (73%)	3 (5%)
2. Communication with Represented Parties	13 (24%)	39 (71%)	3 (5%)
3. Lawyers as Witnesses	11 (20%)	41 (75%)	3 (5%)
4. Candor Towards A Tribunal	16 (29%)	36 (65%)	3 (5%)
5. Conflict of Interest	12 (22%)	40 (73%)	3 (5%)

III. Attorney Discipline in the Federal District Courts

All 94 federal districts responded to the inquiry verifying the existence (or lack thereof) and content of their current local rule adopting procedures for the discipline of attorneys in their courts. Eighty-eight federal districts (94% of all districts) have a local rule containing some type of procedures for the discipline of attorneys, and six districts do not have such a local rule. Table A-14 in the Appendix presents the current attorney discipline rules in each district and identifies the districts without rules.

Attorney discipline in the federal districts is a catchall phrase encompassing several different situations that could warrant discipline. Attorneys convicted of a serious crime could be immediately suspended from practice before the court and after hearing, further disciplined. An

attorney formally disciplined by another court could be subject to the identical discipline by the district court. Finally, a district court might impose discipline upon an attorney when misconduct or allegations of misconduct are brought to the court's attention, whether by complaint or otherwise. A district with a local rule adopting disciplinary procedures may specifically address some, all, or none of these situations.

The Committee requested information on the procedures used by districts to address complaints or allegations of attorney misconduct. These procedures may include investigation, prosecution, and application of the districts' attorney ethics standards to determine if discipline is warranted. The inquiries in the second section of the questionnaire focused on the districts' approaches for addressing allegations of misconduct, and not on their procedures for determining whether reciprocal or additional discipline should be imposed after the attorney's conduct has already been adjudicated as warranting conviction or discipline by another court. Most districts allow broad judicial discretion in this area—both in determining how complaints of attorney misconduct should be handled and where the matter should be referred. This makes it difficult to gain an accurate picture of the approaches actually followed in the districts from the local rules. Therefore, questionnaire responses are used in conjunction with their districts' local rules to provide a more complete account of the actual approaches followed by federal district courts.

A. Current Local Rules Regulating Attorney Discipline

1. Analysis and Grouping of Attorney Discipline Rules

Wide variation exists among the provisions of the districts' local rules establishing procedures for addressing misconduct or allegations of misconduct brought to the courts' attention by formal complaint or otherwise. Some of these rules are extremely detailed and provide procedures for every stage of disposition, while others are very broad and general. For purposes of analysis and comparison, we have placed the eighty-eight districts with disciplinary rules into one of the following loosely defined groups based upon the options provided by the districts' local rule for disposition of attorney misconduct matters:

Group 1¹⁹: Districts with a local rule permitting ("may refer") or requiring ("shall refer") a judicial officer to refer disciplinary matters (for purposes of investigating allegations of misconduct, prosecuting disciplinary proceedings, formulating other appropriate recommendations and/or conducting a hearing at which a decision to impose discipline is made)

¹⁹ There is wide variation among the rules of districts within this grouping. Some of these rules allow for discretion as to referral of the matter either within or outside of the district court only at the investigation and prosecution stages, with the district making the final decision as to discipline. Other rules permit the matter to be referred either outside or within the district or sometimes both for investigation, prosecution and final disposition.

either to bodies or person(s) outside of the federal district court²⁰ (such as the bar of the state wherein the district is located; the disciplinary agency of the highest court of the state wherein the attorney maintains his or her principal office; any disciplinary agency the court deems proper; the United States Attorney for the district) **and/or** to bodies or persons within the federal court (such as member(s) of the bar of the district court; permanent or temporary disciplinary bodies such as “grievance committees,” “disciplinary committees or panels,” “executive committees,” etc.).

Group 2: Districts with a local rule requiring a judicial officer (“shall refer”) to refer disciplinary matters of a more serious nature (may warrant suspension or disbarment) **exclusively** to bodies or person(s) outside of the federal district court (such as the bar of the state wherein the district is located; the disciplinary agency of the highest court of the state wherein the attorney maintains his or her principal office; any disciplinary agency the court deems proper; the United States Attorney for the district).

Group 3: Districts with a local rule permitting (“may”) or requiring (“shall”) a judicial officer to handle the disciplinary matter himself or herself or refer the matter **exclusively** to bodies or person(s) within the federal district court (such as member(s) of the bar of the district court; permanent or temporary disciplinary bodies such as “grievance committees,” “disciplinary committees or panels,” “executive committees,” etc.).

At present, the disciplinary rules of 54 districts (61% of districts with rules) fit into Group 1; three districts’ rules fall into Group 2 (3% of districts with rules), and the rules of 31 districts fit into Group 3 (35% of districts with rules). For each district with a disciplinary rule, Table A-14 in the Appendix indicates which of the three groups the rule fits into. If we operate under the assumption that all attorney conduct matters are handled by each district according to the procedures provided in its local rule, we cannot make many definitive statements about the approaches followed in the federal districts. With this assumption, the only conclusions that can be made are that: (1) districts providing the judicial officer with many options and wide discretion for choosing among them for addressing complaints of attorney misconduct are in the overwhelming majority; (2) districts handling attorney discipline matters exclusively within the district or exclusively referring the matters outside of the district with no provisions for disposing of the matter within the district are a minority. Further, both Groups 1 and 3 (which represent 97% of all districts with disciplinary rules) contain districts with disciplinary rules that are discretionary. In other words, the rule outlines procedures for addressing attorney misconduct complaints that a judicial officer “may” choose to follow or, if not, adopt any other procedures

²⁰ All references to “outside of the district” or “within the district” refer to judicial employees of the federal district court and attorneys who are members of the district court’s bar, and not to the geographical boundaries of the district within which the federal court is located.

deemed appropriate. This makes it even more difficult to accurately determine which approach among the several provided in these rules is actually used, not to mention determining which is used most frequently.

2. History of and Anticipated Changes to Local Rules on Attorney Discipline

The districts' responses to inquiries regarding the history of their disciplinary rules shows movement towards more detailed procedures for addressing complaints of attorney misconduct. Many districts (25) reported amending their rules several times since initial adoption due to a "need for more detailed procedures" and also so that their local rules reflect actual practices within the districts.

Among the 78 districts responding to an inquiry about whether they had plans to amend their current disciplinary rules, 18 reported having proposed amendments. Some proposals are only at the discussion stage while others are in draft form awaiting approval. Five of the 18 districts plan to adopt rules that contain substantially more detailed disciplinary procedures than previously found in their local rules.²¹ Other reasons given for the planned or proposed changes include the need to have rules that provide more streamlined, precise and simpler disciplinary procedures from those previously described as cumbersome;²² to adopt rules that allow for a more proactive approach to attorney discipline²³, and to adopt rules which allow for more discretion and flexibility for the court in the disciplinary process.²⁴

B. Procedures Reportedly Used by the Federal District Courts to Address Complaints of Attorney Misconduct

1. Districts Report Typical Approaches Used and Most Frequently Used Approach

We asked the respondents to choose from a list of general approaches (1) all of the approaches to attorney disciplinary used by the district; and (2) the approach most frequently used by the district. The respondents chose from the following list of general approaches:

1. Refer the matter to the group or agency charged with enforcing state ethical standards (e.g., state bar or attorney grievance commission) for whatever action that agency deems warranted.

²¹ W.D. Mich., D. Or., D. N.M., D. Vt., M.D. Ala.

²² D. P.R., S.D. Ill., W.D. Mo.

²³ S.D. Ind.

²⁴ D. Mass., E.D. Mich., E.D. Ark., W.D. Mo.

2. Appoint the group or agency charged with enforcing state ethical standards to investigate and present the matter to the federal district court.
3. Refer the matter to a single judge in the district.
4. Refer the matter to a panel or committee of judges in the district.
5. Refer the matter to a panel or committee of attorneys in the district for investigation and presentation to the federal district court.
6. Appoint an attorney to investigate and present the matter to the federal district court.
7. Refer the matter to the U.S. Attorney for investigation.
8. Handle it in another way. Please explain.

Next, we asked the respondents to think about the most recent case of alleged attorney misconduct in which the district used what they indicated as the “most frequently used procedure” and reply as to whether the respondent or, to his or her knowledge, other judges in the district, were either (1) dissatisfied with the procedure used; or (2) dissatisfied with the outcome of the case. The following three subsections present the responses to these inquiries for each of the three groupings of districts defined above in section III.A.

a. Group 1 Districts

For Group 1 districts, districts with rules permitting or requiring disciplinary matter to be handled within the district court and/or referred to a person or body outside of the district court, Table A-15 in the Appendix presents the approaches the individual districts reported using, the approach(es) they reported using most frequently, and their reported dissatisfaction with this procedure and outcome in a recent case. For the 45 Group 1 districts responding to these inquiries, the following table shows the number of districts that reported using each of the eight approaches listed above, the number of districts reporting each approach as the one they use most frequently, and the number of districts reporting dissatisfaction with either the procedure or outcome in a recent case in which they used one of approaches listed below.

Table 5
Approaches Used by Group 1 Districts to Address Attorney Misconduct Complaints

General Approaches:	# Districts Reported Using Approach:*	# Districts Reported Approach as Most Frequently Used:*	# Districts Reporting Dissatisfaction with Procedure in Recent Case:	# Districts Reporting Dissatisfaction with Outcome in Recent Case:
1. Refer the matter to the group or agency charged with enforcing state ethical standards (e.g., state bar or attorney grievance commission) for whatever action that agency deems warranted.	30 (67%)	19 (42%)	7	7
2. Appoint the group or agency charged with enforcing state ethical standards to investigate and present the matter to the federal district court.	13 (29%)	4 (9%)	0	1
3. Refer the matter to a single judge in the district.	15 (33%)	0		

4. Refer the matter to a panel or committee of judges in the district.	14 (31%)	7 (16%)	1	1
5. Refer the matter to a panel or committee of attorneys in the district for investigation and presentation to the federal district court.	8 (18%)	4 (9%)	0	0
6. Appoint an attorney to investigate and present the matter to the federal district court.	19 (42%)	7 (16%)	2	2
7. Refer the matter to the U.S. Attorney for investigation.	10 (22%)	3 (7%)	1	0
8. Handle it in another way. Please explain.	5 (11%)	6 (13%)	0	0

*Percentages in these columns do not add to 100 because some districts reported using more than one approach or reported more than one approach as “most frequently used”.

Out of the 45 responding districts in Group 1, the approach the majority of these districts (30 districts or 67% of responding Group 1 districts) reported using, and the approach the largest group of districts (19 districts or 42% of responding Group 1 districts) reported as the most frequently used approach in their district was referring the matter to the group or agency charged with enforcing state ethical standards for whatever action the agency deems is warranted. Likewise, this approach received the highest number (seven) of complaints of dissatisfaction both with the procedure and outcome of recent cases.

To analyze the responses further, we can divide the eight approaches into three categories based upon whether the disciplinary matter is handled outside of the district court (both for investigation and final disposition), within the district court (both for investigation and final disposition), or both outside of the district court (for investigation) and within the district court (for final disposition).²⁵ The category that refers the matter outside of the district court for investigation and final disposition includes the following approach (row 1 in the table above): referring the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. The second category of approaches handles the matter within the district court: referring the matter to a single judge in the district (row 3); referring the matter to a panel or committee of judges in the district (row 4); referring the matter to a panel or committee of attorneys in the district for investigation and presentation to the federal district court (row 5); handling the matter another way (these districts reported handling the matter within the district, either by the presiding judge or the court as a whole) (row 8). The third category of approaches refers the matter both outside of the district court for investigation and within the district court for final disposition: appointing the agency charged with enforcing state ethical standards to investigate and present the matter to the federal district court (row 2); and referring the matter to a United States Attorney for investigation (row 7). One approach, appointing an attorney to investigate and present the matter to the federal district court (row 6), can fit into either the second or third category depending upon whether the appointed attorney is a member of the district court (fits into second category) or not (fits into third category).

²⁵ As indicated earlier, all references to “outside of the district” or “within the district” refer to judicial employees of the federal district court and attorneys who are members of the district court’s bar, and not to the geographical boundaries of the district within which the federal court is located.

Out of the approaches the responding Group 1 districts reported using, 30 of these approaches (26% of all approaches reported being used by Group 1 districts) refer the matter outside of the district court for investigation and final disposition; 61 of these approaches (53% of all approaches reported being used by Group 1 districts) handle the investigation and final disposition within the court; and 42 of these approaches (37% of all approaches reported being used by Group 1 districts) refers the matter both outside the district court for investigation and within the district court for final disposition. Out of the approaches the responding Group 1 districts reported using most frequently, 19 of these approaches (38% of all approaches reported used most frequently by Group 1 districts) handle the matter outside of the district court for investigation and final disposition; 24 of these approaches (48% of all approaches reported used more frequently by Group 1 districts) handle the investigation and final disposition within the court; and 14 of these approaches (28% of all approaches reported used most frequently by Group 1 districts) refer the matter both outside the district court for investigation and within the district court for final disposition. Note that the percentages do not add to 100 because the reported instances of “appointing an attorney to investigate and present the matter to the federal district court” are included in the total for categories two and three, in both the calculation of approaches used by the district and approaches used most frequently.

This categorization scheme allows us to make some observations: (1) The category of approaches used by the largest number of Group 1 districts (based both upon the approaches reportedly used and used most frequently) handles complaints or allegations of attorney misconduct by addressing the matter within the district court, both investigation and final disposition; (2) The majority of Group 1 districts (based both upon the approaches reportedly used (63%) and used most frequently (66%)) favor the approach of referring the matter outside of the district court for investigation of the allegations.(3) The majority of Group 1 districts, based both upon the approaches reportedly used (90%) and approaches reported as used most frequently (78%), prefer to conduct the final disposition of the matter within the district court.

b. Group 2 Districts

For Group 2 districts, districts with rules requiring disciplinary matters of a serious nature to be referred to a person or body outside of the district court, Table A-16 in the Appendix presents the approaches the individual districts reported using in their district, the approach(es) they reported using most frequently, and their reported dissatisfaction with this procedure and outcome in a recent case. For the three Group 2 districts responding to these inquiries, the following table shows the number of districts that reported using each of the eight approaches listed above, the number of districts reporting each approach as the one they use most frequently, and the number of districts reporting dissatisfaction with either the procedure or outcome in a recent case in which they used one of approaches listed below.

Table 6
Approaches Used by Group 2 Districts to Address Attorney Misconduct Complaints

General Approaches:	# Districts Reported Using Approach:*	# Districts Reported Approach as Most Frequently Used:*	# Districts Reporting Dissatisfaction with Procedure in Recent Case:	# Districts Reporting Dissatisfaction with Outcome in Recent Case:
1. Refer the matter to the group or agency charged with enforcing state ethical standards (e.g., state bar or attorney grievance commission) for whatever action that agency deems warranted.	1 (33%)	2 (67%)	0	0
2. Appoint the group or agency charged with enforcing state ethical standards to investigate and present the matter to the federal district court.	1 (33%)	0 (0%)	0	0
3. Refer the matter to a single judge in the district.	1 (33%)	1 (33%)	0	0
4. Refer the matter to a panel or committee of judges in the district.	1 (33%)	0 (0%)	0	0
5. Refer the matter to a panel or committee of attorneys in the district for investigation and presentation to the federal district court.	0 (0%)	0 (0%)	0	0
6. Appoint an attorney to investigate and present the matter to the federal district court.	1 (33%)	0 (0%)	0	0
7. Refer the matter to the U.S. Attorney for investigation.	0 (0%)	0 (0%)	0	0
8. Handle it in another way. Please explain.	0 (0%)	0 (0%)	0	0

*Percentages in these columns do not add to 100 because some districts reported using more than one approach or reported more than one approach as “most frequently used”.

Of the three responding districts in Group 2, two districts said the most frequently used approach was referring the matter to the group or agency charged with enforcing state ethical standards for whatever action the agency deems is warranted; these districts also reported sending the matter outside the district court for investigation but making the final disposition within the district court. The other Group 2 district reported that the approach it uses most frequently is referring the matter to a single judge in the district; this district also reported sending the matter to a panel or committee of judges in the district. Thus, although the local rules of these three districts specifically require serious disciplinary matters to be sent outside of the district court for investigation and final disposition, this practice is not always followed in these districts.

c. Group 3 Districts

For Group 3 districts, districts with rules permitting or requiring disciplinary matters to be handled within the district, Table A-17 in the Appendix presents the approaches the individual districts reported using in their district, the approach(es) they reported using most frequently, and their reported dissatisfaction with this procedure and outcome in a recent case.

For the 25 Group 3 districts responding to these inquiries, the following table shows the number of districts that reported using each of the eight approaches listed above, the number of districts reporting each approach as the one they use most frequently, and the number of districts reporting dissatisfaction with either the procedure or outcome in a recent case in which they used one of approaches listed below.

Table 7
Approaches Used by Group 3 Districts to Address Attorney Misconduct Complaints

General Approaches:	# Districts Reported Using Approach:*	# Districts Reported Approach as Most Frequently Used:*	# Districts Reporting Dissatisfaction with Procedure in Recent Case:	# Districts Reporting Dissatisfaction with Outcome in Recent Case:
1. Refer the matter to the group or agency charged with enforcing state ethical standards (e.g., state bar or attorney grievance commission) for whatever action that agency deems warranted.	15 (60%)	13 (52%)	1	0
2. Appoint the group or agency charged with enforcing state ethical standards to investigate and present the matter to the federal district court.	0	0	0	0
3. Refer the matter to a single judge in the district.	10 (40%)	7 (28%)	2	1
4. Refer the matter to a panel or committee of judges in the district.	7 (28%)	4 (16%)	1	0
5. Refer the matter to a panel or committee of attorneys in the district for investigation and presentation to the federal district court.	8 (32%)	2 (8%)	3	1
6. Appoint an attorney to investigate and present the matter to the federal district court.	6 (24%)	0	1	0
7. Refer the matter to the U.S. Attorney for investigation.	3 (12%)	3 (12%)	0	0
8. Handle it in another way. Please explain	3 (12%)	1 (4%)	0	0

*Percentages in these columns do not add to 100 because some districts reported using more than one approach or reported more than one approach as “most frequently used”.

Out of the 25 responding districts in Group 3, the approach the majority of these districts (15 districts or 60% of responding Group 3 districts) reported using, and the approach the largest group of districts (13 districts or 52% of responding Group 3 districts) reported as the most frequently used approach in their district was referring the matter to the group or agency charged with enforcing state ethical standards for whatever action the agency deems is warranted. This finding directly contradicts the procedures provided for in these districts local rules. However, as explained in section III.A.1, several of the local rules for Group 3 districts are discretionary. The judicial officer may use his or her discretion and either follow the procedures provided for by the rule (addressing the matter within the district) or handle the matter in another way deemed appropriate.

For further analysis, we can use the categorization introduced earlier that distinguishes between an approach that refers investigation and disposition of the misconduct complaint

outside of the district court, approaches that investigate and arrive at final disposition within the district court, and approaches that both refer the matter outside of the district court for investigation and within the district court for final disposition. Of the approaches the responding Group 3 districts reported using, 15 of these approaches (29% of all approaches reported being used by Group 3 districts) refer the matter outside of the district court for investigation and final disposition; 34 of these approaches (65% of all approaches reported being used by Group 3 districts) handle the matter within the district court for investigation and final disposition; and 9 of these approaches (17% of all approaches reported being used by Group 3 districts) refer the matter both outside of the district court for investigation and within the district court for final disposition. Out of the approaches the responding Group 3 districts reported using most frequently, 13 of these approaches (43% of all approaches reported being used most frequently by Group 3 districts) refer the matter outside of the district court for investigation and final disposition; 14 of these approaches (47% of all approaches reported being used most frequently by Group 3 districts) handle the matter within the district court for investigation and final disposition; and 3 of these approaches (10% of all approaches reported being used most frequently by Group 3 districts) refer the matter both outside of the district court for investigation and within the district court for final disposition.²⁶

This categorization scheme allows us to make some observations: (1) The category of approaches reportedly used by the largest number of Group 3 districts (based both upon the approaches reportedly used (65%) and reported as used most frequently (47%)) handles attorney misconduct matters within the district court, both for investigation and prosecution; (2) Although the majority of Group 3 districts (65% of approaches reportedly used) preferred to handle the investigation of attorney misconduct matters within the district court, their responses based upon the approach most frequently used shows a slight preference (53% of approaches reported as used most frequently) for referring the matter outside the district court for investigation; (3) The majority of Group 3 districts (based both upon the approaches they reported as using (82%) and as used most frequently (57%)), prefer to conduct the final disposition of the matter within the district court.

d. All Groups Combined

Of the 73 districts responding from Groups 1, 2 and 3 combined, the procedure they reported as using most frequently (34 districts or 47% of all districts responding) was referring the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. In order of decreasing popularity, 11 districts (15% of all districts responding) reported referring the matter to a panel or group of judges within the

²⁶ Note that the percentages do not add to 100 because the reported instances of “appointing an attorney to investigate and present the matter to the federal district court” are included in the total for categories two and three, in both the calculation of approaches used by the district and approaches used most frequently. In addition, the approaches reported by districts that “handle the matter another way” fit within the category of approaches that address attorney misconduct matters within the district court, for both investigation and final disposition.

district; eight districts (11%) refer the matter to a single judge within the district; 7 districts (10%) appoint an attorney to investigate and present the matter to the federal district court; 6 districts (8%) refer the matter to a panel or committee of attorneys in the district for investigation and presentation to the federal district court; 6 districts (8%) refer the matter to the United States Attorney for investigation; 6 districts (8%) handle the matter another way (all reported disciplinary matters are handled within the district); and 4 districts (5%) appoint the group or agency charged with enforcing state ethical standards to investigate and present the matter to the federal district court.

Of the approaches that Groups 1, 2, and 3 reported as using most frequently, 34 of these approaches (41 % of all approaches reported used most frequently) referred the disciplinary matter **outside** of the district court for investigation and final disposition; 39 of these approaches (47% of all approaches reported used most frequently) investigate and arrive at a final disposition of the complaint **within** the district court; and 17 of these approaches (20% of all approaches reported used most frequently) both send the complaint outside of the district court for investigation and within the district court for final disposition.²⁷ This comparison allows us to make some overall observations: (1) The approach slightly favored by the largest number (47% of all approaches reported as used most frequently) of all responding districts is to address the attorney misconduct matter within the district court, both for investigation and final disposition; (2) The majority of all responding districts (61% of all approaches reported as used most frequently) prefer to refer the investigation of attorney misconduct allegations outside of the district court; (3) The majority of all responding districts (67% of all approaches reported as used most frequently) favor handling the final disposition of the matter within the district court.

2. Referring Attorney Misconduct Complaints to State Disciplinary Authorities

We asked respondents from districts that typically refer the majority of attorney disciplinary matters to committees or panels created within their district to answer several questions about their practices. We asked them to indicate their district's level of overall satisfaction with the process by which allegations of attorney misconduct in federal court are addressed by the state disciplinary agencies. Of the 45 districts who responded to this inquiry, 23 districts (51%) reported being very satisfied, 15 districts (33%) reported being somewhat satisfied, 3 districts (7%) reported being somewhat dissatisfied, 2 districts (4%) reported being very dissatisfied, and 3 districts (7%) indicated they don't know.

Next, we asked these districts if there had been instances during the past two years in which the districts were not satisfied with the process by which attorney misconduct complaints

²⁷ Note that the percentages do not add to 100 because the reported instances of appointing an attorney to investigate and present the matter to the federal district court are included in the total for categories two and three, in both the calculation of approaches used by the district and approaches used most frequently. In addition, all responses to row 8 "handle another way" are included within the category that handles complaints within the district court.

were handled by state disciplinary agencies and/or the final outcome decided by the state disciplinary agency. Of the 47 districts responding to this inquiry, 34 reported no instances of dissatisfaction, and 13 districts indicated that there have been instances within the past two years when they were not satisfied. In addition, we asked the 13 districts reporting instances of dissatisfaction to indicate (1) whether they had experienced problems with the procedure and/or problems with the outcome (or other problems); and (2) whether they had addressed any of these matters de novo in federal court; and (3) the frequency of this occurrence within the past two years. Four districts indicated problems with the procedure and ten districts indicated problems with the outcome. Five of the districts reporting instances of dissatisfaction indicated they had addressed a matter de novo within the past two years.

3. Referring Attorney Misconduct Complaints to Committees or Panels Within the District

We asked respondents from districts that typically refer the majority of attorney disciplinary matters to committees or panels created within their district to answer several questions about their practices. We asked the 17 districts²⁸ that responded to discuss the advantages and disadvantages of addressing complaints of ethics violations within the district court instead of referring the matters to state disciplinary bodies or other external bodies. Ten districts felt that an advantages of having established internal bodies included the ability to address a violation occurring in the district court by the body most familiar with the issues and where relatively few complaints arise, instead of by state disciplinary bodies that are considered by some districts to be overworked and much too slow. Two districts feel that having control over the disciplinary process would more clearly and closely reflect the views and priorities of the district, rather than risk relinquishing the matter to a state agency that may have its own agenda. One district believes that handling disciplinary matters within the district court conveys to attorneys practicing in the district interest in their professional compartment and has a strong effect on the tone of practice in a district.

Disadvantages reported included the necessary time that must be allocated for disciplinary matters which results in an increased workload for federal judges and practitioners (four districts); lack of funds to support disciplinary committees (two districts); possibility of presenting conflict of interest issues (one district); and lack of public notification regarding federal committee's decision (one district). In addition, one district reported feeling that having a separate investigative body and staff would not be cost effective given the relatively few situations that present themselves for processing in the federal districts. Another respondent

²⁸ D. Mass., D. P.R., D. R.I., E.D. N.Y., S.D. N.Y., E.D. Pa., D. Md., E.D. Va., W.D. Tex., N.D. Ohio, W.D. Ark., E.D. Wash., D. N.M.I., D. Colo., D. N.M., E.D. Okla., and N.D. Okla.

pointed out that since most lawyers who breach state standards also breach federal court standards simultaneously, reciprocal discipline is reasonable, fair and effective.

4. Districts Without a Local Rule Prescribing Procedures for Addressing Attorney Misconduct Complaints

As mentioned previously in section III, A.1, at present six districts do not have a local rule establishing procedures for addressing allegations of attorney misconduct. However, several of the districts reported regularly using informal procedures to address disciplinary matters. For example, in the District of Arizona the presiding judge in each division handles routine disciplinary matters, and in unusual or more serious cases, the court refers the matter to its “Lawyers Discipline Committee” consisting of two district judges and one bankruptcy judge. The Western District of Wisconsin feels that routine attorney misconduct matters are adequately addressed by individual dealings between trial judges and attorneys in the case before them. In more complex or serious cases, the chief judge may refer the matter to the state bar.

We asked these districts what problems (if any) they had or were experiencing due to their lack of local rules establishing formal disciplinary procedures. All five responding districts reported experiencing no problems. Moreover, only one district, the Western District of Louisiana, reported that it was considering adopting rules of disciplinary procedure in the future; the other five responding districts had no plans to do so.

C. Frequency of Attorney Misconduct Complaints in the Federal District Courts

We conclude attempting to put a perspective on the scope of attorney misconduct problems in the federal districts. We asked the districts to provide the approximate number of complaints (either formal or otherwise) alleging attorney misconduct received or initiated sua sponte in calendar year 1996, and the number of these dropped or dismissed before any formal procedures were begun. The responses show that allegations of misconduct that occurred within the districts are very small in number. The table below shows the median and range for complaints received in 1996 and complaints on which formal action was taken in 1996. Most of the districts reported that notices from state disciplinary authorities of disciplinary action already taken and sent to the federal district court for imposition of reciprocal discipline comprise the overwhelming majority of their disciplinary matters.

Table 8

Frequency of Attorney Misconduct Complaints in the Federal Districts for Calendar 1996

	Median	Range
Number of Complaints Received in 1996:	7.5	0 - 32
Number of Complaints Formal Action was Taken on in 1996:	7	0 - 32

Table A-18 in the Appendix shows the frequency of complaints for calendar year 1996 in each of the federal districts responding to the inquiry.

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Table A-1

**Rules Governing Attorney Conduct
in the Federal District Courts**

Circuit	District	Local Rule Regulating Attorney Conduct ¹	Approach Adopted by Local Rule		
			State-based	Model Rule-based	Combination State and Model Rule-based
01	D. Me.	Local Rule 83.3	X		
01	D. Mass.	Local Rule 83.6(4)	X		
01	D. N.H.	Local Rule 83.5 (DR-1 and DR-5)	X		
01	D. R.I.	Local Rule 4(d)	X		
01	D. P.R.	Local Rule 211.4(b) (renumbered as Rule 83.5 but effective date unknown at present)		X	
02	D. Conn.	Local Civil Rule 3(a)	X		
02	N.D. N.Y.	Local Rule 83.4(j)		X	
02	E.D. N.Y.	Local Civil Rule 1.5(b)(5)	X		
02	S.D. N.Y.	Local Civil Rule 1.5(b)(5)	X		
02	W.D. N.Y.	Local Civil Rule 83.3(c)	X		
02	D. Vt.	Local Civil Rule 83.2(d)(4)	X		
03	D. Del.	Local Rule 83.6(d)		X	
03	D. N.J.	Local Civil Rules 103.1(a) & 104.1(d)	X		
03	E.D. Pa.	Local Civil Rule 83.6, Rule IV	X		
03	M.D. Pa.	Local Rule 83.23 & Appendix D: Code of Professional Conduct	X		
03	W.D. Pa.	Local Civil Rule 83.6.1	X		
03	D. V.I.	Local Civil Rules 83.2(a)(1) & (b)(4)		X	
04	D. Md.	Local Rule 704	X		
04	E.D. N.C.	Local Rule 2.10	X		
04	M.D. N.C.	Local Rule 505	X		
04	W.D. N.C.	General Local Rule 1 & Guidelines for Resolving Scheduling Conflicts Order			X
04	D. S.C.	Local Rule 83.1.09	X		
04	E.D. Va.	Local Rule 83.1 & Appendix B: Federal Rules of Disciplinary Enforcement, Rule IV	X		
04	W.D. Va.	Local Rules for W.D. Va., Federal Rules of Disciplinary Enforcement, Disciplinary Rule 4	X		
04	N.D. W.Va.	Local Rule of General Practice 3.01			X
04	S.D. W.Va.	Local Rule of General Practice 3.01			X
05	E.D. La.	Local Rule 83.2.4E	X		
05	M.D. La.	Local Rule 20.04M	X		
05	W.D. La.	Local Rule 20.04W	X		
05	N.D. Miss.	Local Rule 21	X		
05	S.D. Miss.	Local Rule 21	X		
05	E.D. Tex.	Local Rule AT-2(a)	X		
05	N.D. Tex.	Local Rule 83.8(e), Local Criminal Rule 57.8(e).	X		
05	S.D. Tex.	Local Rule 1(L) & Appendix A, Rule 1	X		
05	W.D. Tex.	Local Rule AT-4 & Appendix M: Texas Lawyer Creed			X
06	E.D. Ky.	Local Rule 83.3(c) & Local Criminal Rule 57.3(c)	X		
06	W.D. Ky.	Local Rule 83.3(c) & Local Criminal Rule 57.3(c)	X		
06	E.D. Mich.	Local Rule 83.22(d) & Civility Plan (includes Civility Principles based on the 7 th Circuit model)	X		

¹ The identification and categorization of each district's local rule is based upon the published local rule in effect on April 28, 1997.

Circuit	District	Local Rule Regulating Attorney Conduct ¹	Approach Adopted by Local Rule		
			State-based	Model Rule-based	Combination State and Model Rule-based
06	W.D. Mich.	Local Rules 17 & 21(a)	X		
06	N.D. Ohio	Local Civil Rule 83.5(b) & Local Criminal Rule 57.5(b)	X		
06	S.D. Ohio	Local Rule 83.4(f) referencing Appendix of Court Orders, Order 81-1, Rule IV	X		
06	E.D. Tenn.	Local Rules 83.6 & 83.7	X		
06	M.D. Tenn.	Local Rule 1(e)(4)		X	
06	W.D. Tenn.	Local Rule 83.1(e) & Guidelines for Professional Responsibility and Courtesy and Conduct of Memphis Bar Association adopted by the W.D. Tenn. (on file with clerk)	X		
07	C.D. Ill.	Local Rule 83.6(D)	X		
07	N.D. Ill. ²	Local General Rule 3.52 incorporating Rules of Professional Conduct for the N.D. Ill., General Order of 10/29/91 with respect to adoption of the N.D. Ill. Rules & Seventh Circuit Standards of Professional Conduct			
07	S.D. Ill.	Local Rule 29(d)	X		
07	N.D. Ind.	Local Rule 83.5(f) & Seventh Circuit Standards of Professional Conduct	X		
07	S.D. Ind.	Local Rule 83.5(f), Rule IV of Rules of Disciplinary Enforcement & Seventh Circuit Standards of Professional Conduct	X		
07	E.D. Wis.	Local Rule 2.05(a)	X		
07	W.D. Wis.	no local rule			
08	E.D. Ark.	Local Rules for E. & W.D. Ark., Appendix: Model Federal Rules of Disciplinary Enforcement, Rule IV	X		
08	W.D. Ark.	Local Rules for E. & W.D. Ark., Appendix: Model Federal Rules of Disciplinary Enforcement, Rule IV	X		
08	N.D. Iowa	no local rule			
08	S.D. Iowa	no local rule			
08	D. Minn.	Local Rule 83.6(d)	X		
08	E.D. Mo.	Local Rule 12.02 & Rules of Disciplinary Enforcement, Rule IV	X		
08	W.D. Mo.	Local Rule 83.6	X		
08	D. Neb.	Local Rule 83.5(d)	X		
08	D. N.D.	no local rule			
08	D. S.D.	no local rule			
09	D. Alaska	Local Rule 83.1(h)	X		
09	D. Ariz.	Local Rule 1.6(d) & Standards for Professional Conduct adopted by D. Ariz.	X		
09	C.D. Cal.	Local Civil Rule 2.5	X		
09	E.D. Cal.	Local General Rule 180(e)			X
09	N.D. Cal.	Local Civil Rule 11-3(a)	X		
09	S.D. Cal.	Local Rule 83.5i			X
09	D. Haw.	Local Rule 110-3	X		
09	D. Idaho	Local Rule 83.5(a)	X		
09	D. Mont.	Local General Rule 110-3(a)		X	
09	D. Nev.	Local Rule IA 10-7(a)	X		
09	D. Or.	Local Civil Rule 110-3	X		
09	E.D. Wash.	Local Rule 83.3(a)(2)	X		
09	W.D. Wash.	Local General Rule 2(e)	X		

² The approach adopted by the N.D. Ill.'s local rule does not fit into any of the three approaches in the table because the N.D. Ill. has adopted a standard of conduct unique to their district which does not follow state standards nor any ABA Model.

Circuit	District	Local Rule Regulating Attorney Conduct ¹	Approach Adopted by Local Rule		
			State-based	Model Rule-based	Combination State and Model Rule-based
09	D. Guam	Local General Rule 22.3(b)			X
09	D. N.M.I.	Local Rule 1.5		X	
10	D. Colo.	Local Rule 83.6	X		
10	D. Kan.	Local Rule 83.6.1	X		
10	D. N.M.	Local Rule 83.9	X		
10	E.D. Okla.	Local Rule 83.3K	X		
10	N.D. Okla.	Local Rule 83.2	X		
10	W.D. Okla.	Local Rule 83.6(b)	X		
10	D. Utah	Local Rule 103-1(h)	X		
10	D. Wyo.	Local Rule 83.12.7	X		
11	M.D. Ala.	Local Rule 1(a)(4) (renumbered and amended to Local Rule 83.1(f) but no effective date known at present)			X
11	N.D. Ala.	Local Civil Rule 83.1(f)			X
11	S.D. Ala.	Local Rule 1(A)(4) (renumbered and amended to Local Rule 83.5(f); effective 6/1/97)			X
11	M.D. Fla.	Local Rule 2.04(c)	X		
11	N.D. Fla.	Local General Rule 11.1(G)(1) & Addendum: Customary and Traditional Conduct and Decorum in the US District Court	X		
11	S.D. Fla.	Local General Rule 11.1(C) & Rules Governing Attorney Discipline, Rule IV			X
11	M.D. Ga.	Local Rule 13.1			X
11	N.D. Ga.	Local Rule 83.1C	X		
11	S.D. Ga.	Local Rule 83.5(d)		X	
DC	D. D.C.	Local Rule 706	X		

Table A-2

**Components of Model Rule 4(B)
in State-Based Local Rules Governing Attorney Conduct
in Federal District Courts**

Circuit	District	Components of Model Rule 4(B)				Exceptions to Adopted Rules	Other Important Provisions
		Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards		
01	D. Me.	yes	yes	yes	no		
01	D. Mass.	yes	yes	yes	yes		
01	D. N.H.	yes	yes	yes	no		
01	D. R.I.	yes	no	no	no		
02	D. Conn.	yes	no	no	yes	D. Conn. adopted Rules of Professional Conduct of Conn. Superior Court as in effect on 10/1/86 except for Rules 3.6 (ethical standards governing public statements by counsel in a criminal case) & 3.7(b) (ethical standards governing participation as counsel in a case where either the attorney or another attorney in his or her firm may be a witness for both civil and criminal cases).	D. Conn. adopted Rules of Professional Conduct of Conn. Superior Court as in effect on 10/1/86 and only those subsequent changes expressly adopted by order of the District's judges. The interpretation of Rules of Professional Conduct of Conn. Superior Court by any authority other than the U.S. Supreme Court, the Second Circuit Court of Appeals and the D. Conn. shall not be binding on disciplinary proceedings initiated in the D. Conn.
02	E.D. N.Y.	yes	yes	yes	no		E.D. N.Y. adopted N.Y. State Lawyer's Code of Professional Responsibility as interpreted and applied by the U.S. Supreme Court, the Second Circuit Court of Appeals, and the E.D. N.Y.
02	S.D. N.Y.	yes	yes	yes	no		S.D. N.Y. adopted N.Y. State Lawyer's Code of Professional Responsibility as interpreted and applied by the U.S. Supreme Court, the Second Circuit Court of Appeals, and the S.D. N.Y.
02	W.D. N.Y.	no	no	no	no		
02	D. Vt.	yes	yes	yes	yes		
03	D. N.J.	yes	yes	yes	no	D.N.J. adopted ABA Rules of Professional Conduct as revised by N.J. Supreme Court, subject to such modifications as may be required or permitted by federal statute, regulation, court rule or decision of law.	
03	E.D. Pa.	yes	yes	yes	yes	E.D. Pa. adopted Rules of Professional Conduct adopted by Pa. Supreme Court, except that prior court approval as a condition to issuance of a subpoena addressed to an attorney in any criminal proceeding, including a grand jury, shall not be	

Circuit	District	Components of Model Rule 4(B)				Exceptions to Adopted Rules	Other Important Provisions
		Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards		
03	M.D. Pa.	yes	yes	yes	yes	required. M.D. Pa. adopted Rules of Professional Conduct adopted by Pa. Supreme Court, except Rule 3.10 (prior court approval as a condition to issuance of a subpoena addressed to an attorney in any criminal proceeding, including a grand jury, shall not be required.)	
03	W.D. Pa.	yes	yes	yes	yes	W.D. Pa. adopted Rules of Professional Conduct adopted by Pa. Supreme Court, except Rule 3.10 (prior court approval as a condition to issuance of a subpoena addressed to an attorney in any criminal proceeding, including a grand jury, shall not be required).	
04	D. Md.	no	no	no	no		
04	E.D. N.C.	no	no	yes	yes		
04	M.D. N.C.	yes	yes	yes	yes		
04	D. S.C.	no	no	yes	yes		
04	E.D. Va.	yes	yes	yes	yes	E.D. Va. adopted Va. Code of Professional Responsibility, except, contrary to Va. practice, prior court approval as condition to issuance of subpoena addressed to an attorney in any criminal proceeding, including a grand jury, shall not be required.	
04	W.D. Va.	yes	yes	yes	yes		
05	E.D. La.	no	no	yes	yes		
05	M.D. La.	no	no	no	yes		M.D. La. adopted Rules of Professional Conduct of La. State Bar Association in effect on 5/15/89; general court order is required for adoption of subsequently promulgated, or other rules of professional conduct.
05	W.D. La.	no	no	yes	yes		
05	N.D. Miss.	yes	yes	no	no		
05	S.D. Miss.	yes	yes	no	no		
05	E.D. Tex.	yes	yes	no	yes		E.D. Tex. adopted standards of professional conduct of State Bar of Tex. as well as requires familiarization with Tex. Disciplinary Rules of Professional Conduct, court decisions, statutes, and

Circuit	District	Components of Model Rule 4(B)				Exceptions to Adopted Rules	Other Important Provisions
		Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards		
							usages, customs, and practices of Bar of E.D. Tex.
05	N.D. Tex.	no	yes	no	no		
05	S.D. Tex.	yes	yes	no	yes		
06	E.D. Ky.	yes	yes	no	no		
06	W.D. Ky.	yes	yes	no	no		
06	E.D. Mich.	yes	yes	yes	no		
06	W.D. Mich.	yes	yes	no	yes		
06	N.D. Ohio	yes	no	no	yes	N.D. Ohio adopted ethical standards of Code of Professional Responsibility adopted by the Ohio Supreme Court, so far as not inconsistent with federal law.	
06	S.D. Ohio	yes	yes	yes	yes		
06	E.D. Tenn.	yes	yes	no	no		
06	W.D. Tenn.	yes	no	yes	yes	W.D. Tenn. adopted Supreme Court of Tenn.'s Rules of Professional Responsibility, except that prior court approval as condition to issuance of a subpoena addressed to an attorney shall not be required as specified in Tenn.S.Ct.R. 8, DR7-103(c).	
07	C.D. Ill.	no	no	yes	yes		
07	S.D. Ill.	yes	yes	yes	yes		
07	N.D. Ind.	yes	no	no	no		
07	S.D. Ind.	yes	yes	yes	yes		
07	E.D. Wis.	yes	yes	yes	yes		
08	E.D. Ark.	yes	yes	yes	yes		
08	W.D. Ark.	yes	yes	yes	yes		
08	D. Minn.	yes	yes	yes	yes		
08	E.D. Mo.	yes	yes	yes	yes		
08	W.D. Mo.	yes	yes	yes	yes		
08	D. Neb.	yes	yes	yes	yes		
09	D. Alaska	yes	yes	no	yes	D. Alaska. Adopted standards of professional conduct required of members of state bar of Alaska and contained in Alaska Rules of Professional Conduct and decisions of any court applicable thereto, except insofar as such rules and	D. Alaska Adopted standards of professional conduct required of members of state bar of Alaska and contained in Alaska. Rules of Professional Conduct and decisions of any court applicable thereto.

Circuit	District	Components of Model Rule 4(B)				Exceptions to Adopted Rules	Other Important Provisions
		Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards		
						decisions shall be otherwise inconsistent with federal law.	
09	D. Ariz.	yes	no	no	no		
09	C.D. Cal.	yes	yes	no	no		C.D. Cal. adopted Cal. standards of professional conduct as contained in the State Bar Act, Rules of Professional Conduct of State Bar of Cal., and any decisions of any court applicable thereto.
09	N.D. Cal.	yes	no	no	no		N.D. Cal. adopted Cal. standards of professional conduct as contained in the State Bar Act, Rules of Professional Conduct of State Bar of Cal., and any decisions of any court applicable thereto.
09	D. Haw.	yes	no	no	yes	D. Haw. adopted standards of professional and ethical conduct required of members of Haw. State Bar, except (1) Rule 1.6 of Haw. Rules of Professional Conduct. In lieu thereof, ABA Model Rule 1.6 Confidentiality of Information shall apply; (2) Rule 8.4 of Haw. Rules of Professional Conduct. In lieu thereof, ABA Model Rule 8.4 Misconduct shall apply.	
09	D. Idaho	yes	yes	no	no		D. Idaho. adopted standards of professional conduct required of members of Idaho State Bar and decisions of any court applicable thereto.
09	D. Nev.	yes	yes	yes	yes		
09	D. Or.	yes	yes	no	no		
09	E.D. Wash.	yes	no	yes	no		
09	W.D. Wash.	yes	no	yes	yes		
10	D. Colo.	no	no	no	no		
10	D. Kan.	no	no	yes	yes		
10	D. N.M.	no	no	no	yes		
10	E.D. Okla.	yes	no	yes	no		
10	N.D. Okla.	yes	yes	no	no		N.D. Okla. adopted Okla. Rules of Professional Conduct, any interpretive decisions, applicable statutes, and the usages, customs, and practices of the Bar of Okla.
10	W.D. Okla.	no	no	yes	no		
10	D. Utah	yes	no	yes	yes		D. Utah adopted the Utah Rules of Professional Conduct, as revised and

Circuit	District	Components of Model Rule 4(B)				Exceptions to Adopted Rules	Other Important Provisions
		Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards		
							amended and interpreted by the D. Utah.
10	D. Wyo.	yes	yes	yes	yes		
11	M.D. Fla.	yes	no	no	no		
11	N.D. Fla.	yes	no	no	yes	N.D. Fla. adopted Rules of Professional Conduct regulating Fla. Bar, except where an act of Congress, federal rule of procedure, Judicial Conference Resolution or rule of court provides otherwise.	
11	N.D. Ga.	yes	no	no	yes		N.D. Ga. Adopted rules and regulations of State Bar of Ga and decisions of N.D. Ga. interpreting those rules and standards.
DC	D D.C.	yes	yes	no	yes		

Table A-3

**Components of Model Rule 4(B)
in Model Rule-Based Local Rules Governing Attorney Conduct
in Federal District Courts**

Circuit	District	Components of Model Rule 4(B)				Exceptions to Adopted Rules	Other Important Provisions
		Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards		
01	D. P.R.	yes	yes	no	no		
02	N.D. N.Y.	no	no	no	no		
03	D. Del.	yes	yes	no	yes	D. Del. adopted the ABA Rules of Professional Conduct, subject to such modifications as may be required or permitted by Federal statute, court rule or decision of law.	
03	D. V.I.	yes	yes	no	yes	D. V.I. Adopted the ABA Rules of Professional Conduct, subject to such modifications as may be required or permitted by Federal statute, court rule or decision of law.	
06	M.D. Tenn.	yes	yes	no	no		
09	D. Mont.	yes	yes	no	no		
09	D. N.M.I.	yes	no	yes	no		
11	S.D. Ga.	yes	yes	no	no		

Table A-4

**Components of Model Rule 4(B)
in Combination Model Rule and State-Based Local Rules
Governing Attorney Conduct
in Federal District Courts**

Circuit	District	Components of Model Rule 4(B)				Exceptions to Adopted Rules	Other Important Provisions
		Subject to Standards	Misconduct Warranting Discipline	Amendments to Standards	Exceptions to Standards		
04	W.D. N.C.	yes	no	no	no		
04	N.D. W. Va	yes	yes	no	no		
04	S.D. W. Va.	yes	yes	no	no		
05	W.D. Tex.	yes	yes	no	no		W.D. Tex. adopted ABA Code of Professional Responsibility and standards of professional conduct required by Tex. State Bar contained in Tex. Disciplinary Rules of Professional Conduct and the decisions of any court applicable thereto.
09	E.D. Cal.	yes	yes	no	no		E.D. Cal. adopted ABA Model Code of Professional Responsibility and State Bar of Cal. Rules of Professional Conduct, and decisions of any court applicable thereto.
09	S.D. Cal.	yes	yes	no	no		S.D. Cal. adopted ABA Model Code of Professional Responsibility and standards of professional conduct required of State Bar of Cal., and decisions of any court applicable thereto.
09	D. Guam	yes	yes	yes	no		D. Guam adopted standards of professional conduct required by members of the state bar of Guam and ABA Model Rules as adopted on 8/12/69, and as hereinafter amended or judicially construed.
11	M.D. Ala.	yes	yes	no	no		
11	N.D. Ala.	yes	yes	no	yes	N.D. Ala. Adopted Ala. Rules of Professional Conduct, and to extent not inconsistent, ABA Model Rules, except Rule 3.8(f) (prosecutor's duty not to subpoena attorney in a criminal proceeding to present evidence about past or present client.)	
11	S.D. Ala.	yes	no	no	no		
11	S.D. Fla.	yes	yes	yes	yes		
11	M.D. Ga.	yes	yes	yes	yes		

Table A-5

**Reported Changes in Source of
Attorney Conduct Standards Adopted
in the Federal District Courts**

Circuit	District	Reported Change in Standards:
01	D. Me.	From ABA Code of Professional Responsibility (10/1/77) to Code of Professional Responsibility adopted by the Supreme Judicial Court of Maine (6/1/81).
02	E. & S.D. N.Y.	From ABA Code of Professional Responsibility and the N.Y. Bar Association Code of Professional Responsibility to N.Y. State Lawyer's Code of Professional Responsibility (4/15/97).
03	D. Del.	From Rules of Professional Conduct of Del. (1987) to ABA Model Rules.
04	M.D. N.C.	From ABA Canons of Professional Ethics and Canons of Ethics of the N.C. State Bar (1972) to Code of Professional Responsibility of the N.C. Supreme Court (1985).
04	N.D. W. Va.	From code as promulgated by W. Va. Supreme Court to ABA Rules of Professional Conduct, Model Federal Rules of Disciplinary Enforcement as adopted by the N.D. W.Va., and the rules of professional conduct as adopted by the W. Va. Supreme Court of Appeals (3/1/96).
05	M.D. La.	From current ABA Canons of Professional Ethics to the Rules of the La. State Bar Association (1989).
05	N.D. Tex.	From standards of highest court in which district sits (12/78) to no provision regarding applicable ethical standards (1987) to standards of professional conduct of attorneys authorized to practice law in the state of Tex. (1993).
06	E.D. Ky.	From no clearly adopted standard of conduct to Code of Conduct established by Ky. Supreme Court.
06	E.D. Mich.	From ABA Model Rules of Professional Responsibility (1981) to Rules of Professional Conduct adopted by the Mich. Supreme Court.
06	W.D. Tenn.	From ABA Code of Professional Responsibility to standards promulgated by the Tenn. Supreme Court and Memphis Bar Association (1/1/94).
07	N.D. Ill.	From ABA Model Code of Professional Responsibility to Rules of Professional Conduct for the Northern District of Illinois (10/29/91).
07	C.D. Ill.	From Code of Professional Responsibility as adopted by the Illinois Supreme Court (1980-1987) to no standards governing attorney conduct (1987-1989) to Rules of Professional Responsibility of Illinois Supreme Court (1989).
08	D. N.D.	From N.D. Rules of Professional Conduct to no specific standards governing attorney conduct.
09	E.D. Cal.	From Rules of Professional Conduct of State Bar of Cal. to Rules of Professional Conduct of State Bar of Cal. and the ABA Model Code of Professional Responsibility in absence of a Cal. standard.
10	D. Kan.	From no specific standards (1985) to Code adopted by Kan. Supreme Court (10/1/95).
10	E.D. Okla.	From ABA Code of Professional Conduct to Code of Professional Conduct of the Okla. Bar Association (10/1/96).
10	D. Utah	From Utah. Code of Professional Responsibility and Code of Professional Responsibility approved by the Judicial Conference of the U.S. (1980) to Utah. Rules of Professional Conduct and ABA Model Rules (1990) to Utah Rules of Professional Conduct (1991).

Table A-6

**Federal District Courts Reporting Problems
Caused by Ambiguous Language
in their Attorney Conduct Rules**

Circuit	District	Problems Reported as Resulting in Conflicts Between , or Confusion Over, Applicable Standards of Conduct for Attorneys Practicing Within the District:
02	E.D. N.Y.	<ul style="list-style-type: none"> The rule prescribes multiple standards of conduct without indicating which controls.
04	E.D. N.C.	<ul style="list-style-type: none"> Other: Pre-April 4, 1997 rules had an outdated reference to state bar ethical standards.
05	M.D. La.	<ul style="list-style-type: none"> Other: M.D. La. refuses to adopt state rule on grand jury subpoenas to lawyers (although this exception is not made explicit is the local rule).
05	S.D. Tex.	<ul style="list-style-type: none"> Other: S.D. Tex. is uncertain how to handle attorneys suspended or disbarred by the state, but have appeals pending concerning their discipline.
06	E.D. Mich.	<ul style="list-style-type: none"> The rule adopts the standards of the highest state court but does not specify what those standards are. The rule adopts the standards of the highest state court but does not indicate the force of state interpretations before and after the date of the local rule. The rule adopts the standards of the highest state court but does not specify whether those standards include amendments to the rules adopted by the state court after the date of the local rule.
06	N.D. Ohio	<ul style="list-style-type: none"> The rule adopts the standards of the highest state court but does not specify what those standards are. The rule adopts the standards of the highest state court but does not indicate the force of state interpretations before and after the date of the local rule. The rule adopts the standards of the highest state court but does not specify whether those standards include amendments to the rules adopted by the state court after the date of the local rule.
08	E.D. Ark.	<ul style="list-style-type: none"> Other: "Shall refer" in our local rule sounds mandatory when it clearly should be discretionary.
08	E.D. Mo.	<ul style="list-style-type: none"> The rule adopts the standards of the highest state court but does not specify what those standards are Other: Attorneys not admitted in Mo., but admitted in E.D. Mo., are subject to Mo. Standards of conduct, even for conduct occurring outside the district.
08	W.D. Mo.	<ul style="list-style-type: none"> The rule adopts the standards of the highest state court but does not specify what those standards are. The rule adopts the standards of the highest state court but does not indicate the force of state interpretations before and after the date of the local rule. Other: Ambiguities exist in the language that sets forth the district's disciplinary procedures.
09	D. Mont.	<ul style="list-style-type: none"> Other: Our rule adopts ABA Model Rules of Professional Conduct, but references the ABA Canons of Professional Ethics.
10	D. Colo.	<ul style="list-style-type: none"> The rule adopts the standards of the highest state court but does not specify what those standards are. The rule adopts the standards of the highest state court but does not indicate the force of state interpretations before and after the date of the local rule.
10	D. N.M.	<ul style="list-style-type: none"> The rule adopts the standards of the highest state court but does not specify what those standards are. The rule adopts the standards of the highest state court but does not indicate the force of state interpretations before and after the date of the local rule. The rule adopts the standards of the highest state court but does not specify whether those standards include amendments to the rules adopted by the state court after the date of the local rule.
10	D. Utah	<ul style="list-style-type: none"> The local rule clearly adopts the Model Rules of Professional Conduct as the court's standard of conduct, but the local rule does not specify whether the standard adopts the exact ABA version of the Model Rules, or the amended version of the state in which the court sits. The rule prescribes multiple standards of conduct without indicating which controls.

Table A-7

**Federal District Courts Reporting
Problems Resulting From Use of External Standards
Not Explicit in the Districts' Attorney Conduct Rules**

Circuit	District	Situations and Problems Reported as Resulting from Use of Standards Not Explicit in the District's Attorney Conduct Rules
02	E.D. N.Y.	<ul style="list-style-type: none"> Other: In the past, federal cases have referred to a federal interest in interpreting the applicable rules of conduct which may result in interpretations and application different from that of the courts of NY state. This has now been made explicit in the E.D. N.Y.'s newly amended rule which makes interpretation by federal courts explicit.
04	E.D. N.C.	<ul style="list-style-type: none"> The local rule does not mention an ABA model, but your district looks to ABA models to "interpret" local rules and resolve ambiguities, even though your district has not expressly "incorporated" ABA models into its local rules.
04	D. S.C.	<ul style="list-style-type: none"> The local rule does not mention an ABA model, but your district looks to ABA models to "interpret" local rules and resolve ambiguities, even though your district has not expressly "incorporated" ABA models into its local rules.
05	N.D. Tex.	<ul style="list-style-type: none"> Other: N.D. Tex.'s local rules define "ethical behavior" as conduct "that violates any code, rule, or standard of professional conduct or responsibility governing the conduct of attorneys authorized to practice law in the state of Tex." These codes, rules, or standards are external standards that are not explicitly set out in the rules themselves. In addition, standards adopted in <i>Dondi Properties Corp. v. Commerce Savs. & Loan Ass'n</i>, 121 F.R.D. 284 (N.D. Tex. 1988)(en banc) govern conduct of attorneys in ND. Tex. in civil cases
06	W.D. Ky.	<ul style="list-style-type: none"> Other: W.D. Ky. refers to Ky Supreme Court Rules governing Ky. lawyers.
10	D. Colo.	<ul style="list-style-type: none"> Other: D. Colo. felt that an example of utilization of external standards not explicit in their local rule was the presumption that disciplinary action of Colo. Supreme Court is appropriate with imposition of identical sanction in D. Colo. as result.
10	D. Utah	<ul style="list-style-type: none"> Other: D. Utah lists as example the fact that their local rule does not mention circuit case decisions.

Table A-8

**Federal District Courts Reporting Complaints of
Lack of Due Process and Vagueness
Resulting From Their Attorney Conduct Rules**

Circuit	District	Brief description of nature and extent of due process and vagueness complaints reported by the district.
04	D. S.C.	<ul style="list-style-type: none"> There is no provision for an attorney to receive and respond to the report and recommendation of a hearing judge.
05	S.D. Tx	<ul style="list-style-type: none"> There is no consensus on whether to allow an attorney whose state suspension is on appeal to continue to practice in federal court.
06	W.D. Mich.	<ul style="list-style-type: none"> W.D. Mich. has received some complaints concerning lack of express process in rules regarding attorney discipline and reinstatement after discipline.
08	W.D. Mo.	<ul style="list-style-type: none"> Confusion exists over when, if at all, an attorney is entitled to a hearing on misconduct allegations or a hearing for reinstatement.
10	D. Colo.	<ul style="list-style-type: none"> Questions surround our practice of imposing simultaneous and identical sanction as those imposed by Colo. Supreme Court.
10	D. N.M.	<ul style="list-style-type: none"> D. N.M. feels that although its local rule is flexible, it is overly broad and vague and allows court to do

Circuit	District	Brief description of nature and extent of due process and vagueness complaints reported by the district.
		whatever it feels is appropriate.

Table A-9

**Federal District Courts Reporting Multiform Problems
Resulting From Their Attorney Conduct Rules**

Circuit	District	Brief Description of Nature and Extent of Reported Attorney Conduct Problems Involving Multiple Venues
04	D. S.C.	•Although D. S.C. has generally deferred to the state disciplinary process, inconsistencies in the result in that venue has resulted in the district conducting its own disciplinary proceedings in several matters.
05	S.D. Tex.	•Many of the judges in the S.D. Tex. consider some state disciplinary action to be too harsh.
06	W.D. Mich.	•Although it has not arisen in a concrete manner in the W.D. Mich., the US Attorney has questioned whether state ethical rules governing prosecutors can be applied to him and his assistants.
08	E.D. Mo.	•E.D. Mo. has experienced conflict between state and federal standards regarding the effect of “any felony” conviction as grounds for disbarment.
08	W.D. Mo.	•Some conflict has arisen because the state court’s application of standards is different than application that the W.D. Mo. would make for the same conduct.
10	D. Colo.	•There have been cases in which the D. Colo. disagreed with the sanction imposed by the state court.
10	D. Utah	•Differences between federal and state standards have caused some problems.

Table A-10

**Federal District Courts Reporting Problems
With Federal Agencies Promulgating Their Own Attorney Conduct Rules**

Circuit	District	Brief description of the nature and extent of the reported problem.
01	D. N.H.	•Although DOJ has claimed that its attorneys are not subject to the local disciplinary rules, the D. N.H. has informed the DOJ that its attorneys are subject to the rules of the D. N.H.
02	E.D. N.Y.	•The DOJ has taken a position with regard to the ability of prosecutors to speak to represented persons that is in conflict with local state court interpretations of the NY State Code.
04	D. S.C.	•DOJ policies on contact with represented persons have been in conflict with the SC Rules of Professional Conduct which are incorporated into local rules of D. S.C.
06	E.D. Ky.	•E.D. Ky. experienced a problem with ethical jurisdiction over out of state attorneys thus the district is revising our rule to require pro hac vice attorneys to submit themselves to jurisdiction of E.D. Ky. However, we are uncertain over whether this will help alleviate problems with DOJ attorneys.
07	N.D. Ill.	•DOJ does not view its attorneys to be bound by N.D. Ill. Rule 4.2 which corresponds to ABA Model Rule 4.2.
08	W.D. Mo.	•Potential problems with DOJ standards on contact with represented persons has been discussed, although no actual cases have arisen.
10	N.D. Okla.	•DOJ has objected to Okla. rules regarding the subpoena of a lawyer to present evidence about a client and regarding presentation of adverse facts in ex parte proceedings, and has recommended that N.D. Okla. except these rules from the adoption of the OK. Rules of Professional Conduct.
10	D. Utah	•We have experienced problems with the SEC and the Patent and Trademark Office.

Table A-11

**Problems Experienced by the Federal Districts
Due to Specific Ethical Standards**

Circuit	District	Indicate Manner in Which Each Category of Ethics Standards Created a Problem in at Least One Specific Instance and Frequency with which These Problems Were Experienced Within the Past 2 Years:				
		Confidentiality	Communication with Represented Parties	Lawyers as Witnesses	Candor Towards the Tribunal	Conflict of Interest
01	D. P.R.	<ul style="list-style-type: none"> not speaking to alleged unethical conduct being unclear (once) 	<ul style="list-style-type: none"> not speaking to alleged unethical conduct being unclear (once) 	<ul style="list-style-type: none"> not speaking to alleged unethical conduct being unclear (once) 	<ul style="list-style-type: none"> not speaking to alleged unethical conduct being unclear (once) 	<ul style="list-style-type: none"> not speaking to alleged unethical conduct being unclear (2 to 5 times)
02	E.D. N.Y.		<ul style="list-style-type: none"> being inconsistent with other standards of conduct (once) 			
02	S.D. N.Y.		<ul style="list-style-type: none"> being too broad (no problems within past 2 years) 			
03	D. N.J.		<ul style="list-style-type: none"> Other: There are conflicting decisions about propriety of one party conducting ex parte interviews with former employees of an adverse party. (5 to 10 times) 			
03	D. V.I.					<ul style="list-style-type: none"> being unclear (frequency not provided)
04	D. S.C.		<ul style="list-style-type: none"> being inconsistent with other standards of conduct (frequency not provided) 			
06	E.D. Ky.				<ul style="list-style-type: none"> Other: Out of state DOJ Attorneys not subject to Ky. Bar ethics jurisdiction. (no problems within past 2 years) 	
06	W.D. Mich.		<ul style="list-style-type: none"> Other: Although conflict between state and DOJ interpretations of rule regarding federal prosecutors speaking to witnesses considered “represented parties” has arisen, W.D. Mich. hasn’t had to deal with the issue formally either by rulemaking or in a particular case. (once) 			
06	S.D. Ohio		<ul style="list-style-type: none"> not speaking to alleged unethical 			

Circuit	District	Indicate Manner in Which Each Category of Ethics Standards Created a Problem in at Least One Specific Instance and Frequency with which These Problems Were Experienced Within the Past 2 Years:				
		Confidentiality	Communication with Represented Parties	Lawyers as Witnesses	Candor Towards the Tribunal	Conflict of Interest
			conduct •(once)			
07	N.D. Ill.		•being inconsistent with other standards of conduct •(no problems within past 2 years)			
08	E.D. Ark.					•being inconsistent with other standards of conduct •(once)
08	W.D. Mo.		•being unclear •being too broad •(once)		•being too narrow •(once)	
08	D. S.D.				•being unclear •being too narrow •(once)	
10	D. Colo.		•Not speaking to alleged unethical conduct •Other: Problems with Assistant US Attorneys advising arrested suspects about sentencing guidelines before defense counsel is appointed. •(frequency unknown)		•Not speaking to alleged unethical conduct •being unclear •Other: Inadequate preparation and experience. •(frequency unknown)	•Being unclear •(frequency unknown)
10	N.D. Okla.	•Not speaking to alleged unethical conduct •being unclear •(no problems within past 2 years)	•being inconsistent with other standards of conduct •(no problems within past 2 years)	•being inconsistent with other standards of conduct •(no problems within past 2 years)	•being inconsistent with other standards of conduct •(no problems within past 2 years)	
10	D. Utah	•being too broad •(2 to 5 times)	•being too broad •being inconsistent with other standards of conduct •Other: In conflict with other court decisions. •(10 or more times)	•Being too broad •(2 to 5 times)		•Not speaking to alleged unethical conduct •being unclear •being too broad •Other: Conflict with decisions of Supreme Court and Circuit Courts. •(10 or more times)
11	N.D. Ala.		•Being too broad •Other: Problems as to when communications with employees/former employees can be contacted or responded to at their initiative. •(10 or more times)			

Table A-12

**National Uniformity of Standards
Governing the Professional Conduct of Attorneys
in the Federal District Courts**

Circuit	District	YES, in support of national uniformity.	NO, not in support of national uniformity.	No Opinion.
01	D. Me.		X	
01	D. Mass.		X	
01	D. N.H.		X	
01	D. P.R.	X		
01	D. R.I.		X	
02	D. Conn.		X	
02	E.D. N.Y.	X		
02	S.D. N.Y.			X
02	W.D. N.Y.	X		
02	D. Vt.		X	
03	D. N.J.		X	
03	E.D. Pa.		X	
03	M.D. Pa.		X	
03	D. V.I.	X		
04	D. Md.		X	
04	E.D. N.C.		X	
04	M.D. N.C.		X	
04	W.D. N.C.	X		
04	D. S.C.		X	
04	E.D. Va.		X	
04	W.D. Va.		X	
04	N.D. W. Va.		X	
05	E.D. La.		X	
05	M.D. La.		X	
05	W.D. La.		X	
05	N.D. Miss.	X		
05	S.D. Miss.		X	
05	E.D. Tex.		X	
05	N.D. Tex.		X	
05	S.D. Tex.		X	
05	W.D. Tex.		X	
06	E.D. Ky.		X	
06	W.D. Ky.		X	
06	E.D. Mich.	X		
06	W.D. Mich.		X	
06	N.D. Ohio	X		
06	S.D. Ohio	X		
06	E.D. Tenn.	X		
06	M.D. Tenn.	X		
06	W.D. Tenn.		X	
07	C.D. Ill.		X	
07	N.D. Ill.		X	
07	S.D. Ill.		X	
07	N.D. Ind.	X		
07	S.D. Ind.		X	
07	E.D. Wis.		X	
08	E.D. Ark.		X	
08	W.D. Ark.	X		
08	N.D. Iowa		X	
08	S.D. Iowa		X	
08	D. Minn.	X		
08	E.D. Mo.	X		
08	W.D. Mo.		X	

Circuit	District	YES, in support of national uniformity.	NO, not in support of national uniformity.	No Opinion.
08	D. Neb.		X	
08	D. S.D.		X	
09	D. Alaska		X	
09	E.D. Cal.		X	
09	D. Haw.	X		
09	D. Idaho		X	
09	D. Mont.	X		
09	D. Or.		X	
09	E.D. Wash.	X		
09	W.D. Wash.	X		
09	D. N.M.I.	X		
10	D. Colo.	X		
10	D. Kan.		X	
10	D. N.M.	X		
10	E.D. Okla.	X		
10	N.D. Okla.		X	
10	W.D. Okla.		X	
10	D. Utah		X	
10	D. Wyo.		X	
11	M.D. Ala.		X	
11	N.D. Ala.			X
11	S.D. Ala.		X	
11	M.D. Fla.	X		
11	N.D. Fla.		X	
11	M.D. Ga.		X	
11	S.D. Ga.		X	

Table A-13

**Selective Uniformity of Standards
Governing the Professional Conduct of Attorneys
in the Federal District Courts**

Circuit	District	Indicate whether district is in favor of uniformity for each category of ethical standards:				
		confidentiality	communication with represented parties	lawyers as witnesses	candor towards a tribunal	conflict of interest
03	D. N.J.			X	X	
03	M.D. Pa.	X			X	X
04	E.D. N.C.	X	X	X	X	X
04	M.D. N.C.	X	X	X	X	
04	D. S.C.	X	X	X	X	X
04	W.D. Va.				X	
05	E.D. La.	X	X	X	X	X
05	M.D. La.	X	X	X	X	X
05	W.D. La.	X	X		X	X
05	E.D. Tex.		X	X	X	X
05	W.D. Tex.	X	X	X	X	X
06	E.D. Ky.		X			
07	S.D. Ill.	X	X		X	
07	S.D. Ind.	X	X	X	X	X
08	N.D. Iowa	X	X		X	X
10	D. Utah			X	X	X
11	N.D. Fla.	X	X	X	X	X

Table A-14

**Attorney Discipline Rules
in the Federal District Courts**

Circuit	District	Local Rule on Attorney Discipline	Group 1 ¹	Group 2 ²	Group 3 ³
01	D. Me.	Local Rule 83.3	X		
01	D. Mass.	Local Rule 83.6	X		
01	D. N.H.	Local Rule 83.5 (DR-6)	X		
01	D. R.I.	Local Rule 4(e)	X		
01	D. P.R.	Local Rule 211.5 (renumbered as Local Rule 83.5; no effective date known at present)			X
02	D. Conn.	Local Rule 3(b)-(f)	X		
02	E.D. N.Y.	Local Rule 1.5			X
02	N.D. N.Y.	Local Rule 83.4			X
02	S.D. N.Y.	Local Rule 1.5			X
02	W.D. N.Y.	Local Rule 83.3(a)			X
02	D. Vt.	Local Rule 83.2(d)	X		
03	D. Del.	Local Rule 83.6			X
03	D. N.J.	Local Civil Rule 104.1	X		
03	E.D. Pa.	Local Rule 83.6	X		
03	M.D. Pa.	Local Rules 83.20 to 83.31	X		
03	W.D. Pa.	Local Civil Rule 83.6	X		
03	D. V.I.	Local Rule 83.2(b)	X		
04	D. Md.	Local Rule 705	X		
04	E.D. N.C.	Local rule 2.10 (informs that disciplinary procedures are on file with clerk and available on request; will be published as part of local rules in 9/97.)	X		
04	M.D. N.C.	Local Rules 501-513	X		
04	W.D. N.C.	no local rule	X		
04	D. S.C.	Local Rule 83.I.09	X		
04	E.D. Va.	Local Rule 83.1(L) & Appendix B: Federal Rules of Disciplinary Enforcement	X		
04	W.D. Va.	Local Rules for W.D. Va., Model Rules of Disciplinary Enforcement	X		
04	N.D. W.Va.	no local rule	X		
04	S.D. W.Va.	Local Rule General Practice 3.01 referencing Model Federal Rules of Disciplinary Enforcement (available from clerk's office)	X		
05	E.D. La.	Local Rule 83.2.10E	X		
05	M.D. La.	Local Rule 20.10M			X
05	W.D. La.	no local rule	X		
05	N.D. Miss.	Local Rule 1 (c)		X	
05	S.D. Miss.	Local Rule 1 (c)		X	
05	E.D. Tex.	Local Rule AT-2(d)			X
05	N.D. Tex.	Local Rule 83.8 & Local Criminal Rule 57.8			X
05	S.D. Tex.	Local Rules for S.D. Tex., Appendix A. Rules of Discipline, Rule 5			X

¹ Districts with a local rule permitting (“may refer”) or requiring (“shall refer”) a judicial officer to refer disciplinary matters (for purposes of investigating allegations of misconduct, prosecuting disciplinary proceedings, formulating other appropriate recommendations and/or conducting a hearing at which a decision to impose discipline is made) either to bodies or person(s) outside of the federal district court (such as the bar of the state wherein the district is located; the disciplinary agency of the highest court of the state wherein the attorney maintains his or her principal office; any disciplinary agency the court deems proper; the United States Attorney for the district) **and/or** to bodies or persons within the federal court (such as member(s) of the bar of the district court; permanent or temporary disciplinary bodies such as “grievance committees,” “disciplinary committees or panels,” “executive committees,” etc.).

² Districts with a local rule requiring a judicial officer (“shall refer”) to refer disciplinary matters of a more serious nature (may warrant suspension or disbarment) **exclusively** to bodies or person(s) outside of the federal district court (such as the bar of the state wherein the district is located; the disciplinary agency of the highest court of the state wherein the attorney maintains his or her principal office; any disciplinary agency the court deems proper; the United States Attorney for the district).

³ Districts with a local rule permitting (“may”) or requiring (“shall”) a judicial officer to handle the disciplinary matter himself or herself or refer the matter **exclusively** to bodies or person(s) within the federal district court (such as member(s) of the bar of the district court; permanent or temporary disciplinary bodies such as “grievance committees,” “disciplinary committees or panels,” “executive committees,” etc.).

Circuit	District	Local Rule on Attorney Discipline	Group 1 ¹	Group 2 ²	Group 3 ³
05	W.D. Tex.	Local Rule AT-1(I)			X
06	E.D. Ky.	Local Rule 83.3 & Local Criminal Rule 57.3			X
06	W.D. Ky.	Local Rule 83.3 & Local Criminal Rule 57.3			X
06	E.D. Mich.	Local Rule 83.22(e)		X	
06	W.D. Mich.	Local Rule 21			X
06	N.D. Ohio	Local Civil Rule 83.7 & Local Criminal Rule 57.7			X
06	S.D. Ohio	Local Rule 83.4(f) incorporating Appendix of Court Orders, Order 81-1	X		
06	E.D. Tenn.	Local Rule 83.7	X		
06	M.D. Tenn.	Local Rule 1(e)	X		
06	W.D. Tenn.	Local Rule 83.1(e)(1) referencing Order Adopting Rules of Disciplinary Enforcement (available from clerk's office)	X		
07	C.D. Ill.	Local Rule 83.6	X		
07	N.D. Ill.	Local Rules 3.50 to 3.79	X		
07	S.D. Ill.	Local Rule 29(e)			X
07	N.D. Ind.	Local Rule 83.6	X		
07	S.D. Ind.	Local Rules for S.D. Ind., Rules of Disciplinary Enforcement	X		
07	E.D. Wis.	Local Rule 2.05			X
07	W.D. Wis.	no local rule	X		
08	E.D. Ark.	Local Rules for E. & W.D. Ark., Appendix. Model Federal Rules of Disciplinary Enforcement	X		
08	W.D. Ark.	Local Rules for E. & W.D. Ark., Appendix. Model Federal Rules of Disciplinary Enforcement	X		
08	N.D. Iowa	Local Rule 83.2(g)			X
08	S.D. Iowa	Local Rule 83.2(g)			X
08	D. Minn.	Local Rule 83.6(e)	X		
08	E.D. Mo.	Local Rule 12.02 referencing Rules of Disciplinary Enforcement (available from clerk's office)	X		
08	W.D. Mo.	local Rule 83.6	X		
08	D. Neb.	Local Rule 83.5	X		
08	D. N.D.	Local Rule 79.1(E)	X		
08	D. S.D.	Local Rule 83.2(G)	X		
09	D. Alaska	no local rule Note: Local Rule 83.1(f) contains procedures for reciprocal discipline and reinstatement, but no procedures for allegations of attorney misconduct before the district court	X		
09	D. Ariz.	no local rule	X		
09	C.D. Cal.	Local Civil Rule 2.6			X
09	E.D. Cal.	Local General Rule 184	X		
09	N.D. Cal.	Local Civil Rule 11-6			X
09	S.D. Cal.	Local Rule 83.5j	X		
09	D. Haw.	Local Rule 110-4	X		
09	D. Idaho	Local Rule 83.5(b)	X		
09	D. Mont.	Local General Rules 110-3 & 110-5	X		
09	D. Nev.	Local Rule IA 10-7			X
09	D. Or.	Local Rule 110-6			X
09	E.D. Wash.	Local Rule 83.3(a)			X
09	W.D. Wash.	Local Rule 2(e)			X
09	D. Guam	Local General Rule 22.4	X		
09	D. N.M.I.	Local Rule 1.5: Appendix A Disciplinary Rules			X
10	D. Colo.	Local Rules 83.5 & 83.6	X		
10	D. Kan.	Local Rule 83.6	X		
10	D. N.M.	Local Rule 83.2(f) & 83.10			X
10	E.D. Okla.	Local Rules 1.3 & 83.3L	X		
10	N.D. Okla.	Local Civil Rule 1.4	X		
10	W.D. Okla.	Local Rule 83.6 (c)	X		
10	D. Utah	Local Rule 103-5	X		
10	D. Wyo.	Local Rules 83.12.1 to 83.12.15	X		
11	M.D. Ala.	Local Rule 2 (renumbered and amended to Local Rule 83.1; no effective date at present)			X
11	N.D. Ala.	Local Rule 83.1	X		

Circuit	District	Local Rule on Attorney Discipline	Group 1 ¹	Group 2 ²	Group 3 ³
11	S.D. Ala.	Local Rule 3 (renumbered and amended to Local Rule 83.6; effective date 6/1/97)			X
11	M.D. Fla.	Local Rule 2.04	X		
11	N.D. Fla.	Local General Rule 11.1(G)			X
11	S.D. Fla.	Local Rules for S.D. Fla., Rules Governing Attorney Discipline, Prefatory Statement	X		
11	M.D. Ga.	Local Rule 13	X		
11	N.D. Ga.	Local Rule 83.1F	X		
11	S.D. Ga.	Local Rule 83.5			X
DC	D. D.C.	Local Rule 707	X		

Table A-15

**Group 1 Districts¹: Approaches Reportedly Used
to Address Complaints of Attorney Misconduct
in the Federal District Courts**

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
01	D. Me.	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. 	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. 		
01	D. Mass.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a panel or committee of judges in district. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a panel or committee of judges in district. 		
01	D. N.H.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint an attorney to investigate and present to federal district court. 			
01	D. R.I.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court. •Refer to U.S. Attorney for investigation. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a panel or committee of judges in district. 		
02	D. Conn.	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Refer to a single judge in the district 	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. 		
02	D. Vt.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint an attorney to investigate and present to federal district court. 		
03	D. N.J.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		

¹ Districts with a local rule permitting (“may refer”) or requiring (“shall refer”) a judicial officer to refer disciplinary matters (for purposes of investigating allegations of misconduct, prosecuting disciplinary proceedings, formulating other appropriate recommendations and/or conducting a hearing at which a decision to impose discipline is made) either to bodies or person(s) outside of the federal district court (such as the bar of the state wherein the district is located; the disciplinary agency of the highest court of the state wherein the attorney maintains his or her principal office; any disciplinary agency the court deems proper; the United States Attorney for the district) **and/or** to bodies or persons within the federal court (such as member(s) of the bar of the district court; permanent or temporary disciplinary bodies such as “grievance committees,” “disciplinary committees or panels,” “executive committees,” etc.).

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
		<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 			
03	E.D. Pa.	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district 	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. 		
03	M.D. Pa.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	X	X
03	W.D. Pa.				
03	D. V.I.	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 		
04	D. Md.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. 		
04	E.D. N.C.	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Refer to a single judge in the district •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court. •Refer to U.S. Attorney for investigation. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		
04	M.D. N.C.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 		
04	D. S.C.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court. •Refer to U.S. Attorney for investigation. 	<ul style="list-style-type: none"> •Refer to U.S. Attorney for investigation. 	X	
04	E.D. Va.	<ul style="list-style-type: none"> •Handle another way: follow procedures in local rule depending on nature of discipline. 	<ul style="list-style-type: none"> •Handle another way: follow procedures in local rule depending on nature of discipline. 		
04	W.D. Va.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Handle another way: presiding judge deals with problem. 	<ul style="list-style-type: none"> •Handle another way: presiding judge deals with problem. 		
05	E.D. La.	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. •Refer to U.S. Attorney for investigation. •Handle another way; Referred to court en 	<ul style="list-style-type: none"> •Handle another way: Referred to court en banc; attorney appointed to file formal complaint; judge makes recommendation to court en 		

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
		banc before any discipline imposed.	banc.		
05	S.D. Ohio	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 		
06	E.D. Tenn.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	X	X
06	M.D. Tenn.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	X	X
06	W.D. Tenn.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Refer to a single judge in the district •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	X	X
07	N.D. Ill.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Appoint an attorney to investigate and present to federal district court. •Refer to U.S. Attorney for investigation. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		
07	C.D. Ill.	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. 	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. 		
07	N.D. Ind.	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Appoint an attorney to investigate and present to federal district court. 		
07	S.D. Ind.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Refer to a single judge in the district •Refer to U.S. Attorney for investigation. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	X	X
07	E.D. Ark.	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. 	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. 		X
08	W.D. Ark.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present 	<ul style="list-style-type: none"> •Handle another way: Handled by court as whole, through correspondence, conference calls and meetings. 		

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
		matter to federal district court. •Handle another way: Handled by court as whole, through correspondence, conference calls and meetings.			
08	D. Minn.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint an attorney to investigate and present to federal district court.	X	X
08	E.D. Mo.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court.			
08	W.D. Mo.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court.	•Appoint an attorney to investigate and present to federal district court.	X	X
08	D. Neb.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district •Refer to a panel or committee of judges in district. •Appoint an attorney to investigate and present to federal district court.	•Handle another way. Suspension is imposed by active Article III judges as result of discipline imposed by Neb. Supreme Court.		
08	D. N.D.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
08	D. S.D.	•Refer to U.S. Attorney for investigation.	•Refer to U.S. Attorney for investigation.		
08	E.D. Cal.	•Handle another way: Handled by judge before whom matter pending.	•Handle another way: Handled by judge before whom matter giving rise to misconduct is pending..		
09	S.D. Cal.				
09	D. Guam				
09	D. Haw.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
09	D. Idaho	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
09	D. Mont.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to U.S. Attorney for investigation. 	<ul style="list-style-type: none"> •Refer to U.S. Attorney for investigation. 		
10	D. Colo.	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 		
10	D. Kan.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a panel or committee of judges in district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		
10	E.D. Okla.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted., •Refer to a single judge in the district •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	<ul style="list-style-type: none"> •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 		
10	N.D. Okla.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	<ul style="list-style-type: none"> •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	X	X
10	W.D. Okla..	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. 	<ul style="list-style-type: none"> •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. 		
10	D. Utah	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. 	<ul style="list-style-type: none"> •Refer to a panel or committee of judges in district. 	X	X
10	D. Wyo.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		
11	N.D. Ala.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Refer to a single judge in the district. •Refer to a panel or committee of judges in district. •Refer to panel or committee of attorneys in 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
		district for investigation and presentation to federal district court. •Refer to U.S. Attorney for investigation.			
11	M.D. Fla.	•Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.	•Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.		
11	S.D. Fla.				
11	M.D. Ga.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district •Appoint an attorney to investigate and present to federal district court. •Refer to U.S. Attorney for investigation.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.	X	X
11	N.D. Ga.				
DC	D. D.C.				

Table A-16

**Group 2¹ Districts: Approaches Reportedly Used
to Address Complaints of Attorney Misconduct
in the Federal District Courts**

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
05	N.D. Miss.	<ul style="list-style-type: none"> •Refer to a single judge in the district. •Refer to a panel or committee of judges in district. 	<ul style="list-style-type: none"> •Refer to a single judge in the district. 		
05	S.D. Miss.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		
06	E.D. Mich.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Appoint agency charged with enforcing state ethical standards to investigate and present matter to federal district court. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		

¹ Districts with a local rule requiring a judicial officer (“shall refer”) to refer disciplinary matters of a more serious nature (may warrant suspension or disbarment) **exclusively** to bodies or person(s) outside of the federal district court (such as the bar of the state wherein the district is located; the disciplinary agency of the highest court of the state wherein the attorney maintains his or her principal office; any disciplinary agency the court deems proper; the United States Attorney for the district).

Table A-17

**Group 3¹ Districts: Approaches Reportedly Used
to Address Complaints of Attorney Misconduct
in the Federal District Courts**

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
01	D. P.R.	•Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.	•Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.	X	X
02	E.D. N.Y.	•Refer to panel or committee of judges within district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. •Appoint an attorney to investigate and present to federal district court.	•Refer to panel or committee of judges within district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. •Appoint an attorney to investigate and present to federal district court.	X	
02	N.D. N.Y.	•	•		
02	S.D. N.Y.	•Refer to panel or committee of judges within district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.	•Refer to panel or committee of judges within district.		
02	W.D. N.Y.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Appoint an attorney to investigate and present to federal district court.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
03	D. Dell.	•	•		
05	M.D. La.	•Refer to a single judge in the district.	•Refer to a single judge in the district.		
05	E.D. Tex.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Appoint an attorney to investigate and present to federal district court.	•Refer to a single judge in the district.		
05	N.D. Tex.	•Handle another way: attorney discipline is handled by judge before whom case is pending, subject right to appeal to Chief Judge.	•Handle another way: attorney discipline is handled by judge before whom case is pending, subject right to appeal to Chief Judge.		
05	W.D. Tex.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court.		
05	S.D. Tex.	•Refer the matter to the group or agency charged	•Refer to a single judge in	X	X

¹ Districts with a local rule permitting (“may”) or requiring (“shall”) a judicial officer to handle the disciplinary matter himself or herself or refer the matter **exclusively** to bodies or person(s) within the federal district (such as member(s) of the bar of the district court; permanent or temporary disciplinary bodies such as “grievance committees,” “disciplinary committees or panels,” “executive committees,” etc.).

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
		with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. •Appoint an attorney to investigate and present to federal district court.	the district.		
06	E.D. Ky.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Handle another way: referred matter to magistrate judge for report and recommendation which court adopted.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
06	W.D. Ky.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
06	W.D. Mich.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Refer to panel or committee of judges within district.	•Refer to a single judge in the district.		
06	N.D. Ohio	•Refer to panel or committee of judges within district.	•Refer to panel or committee of judges within district.		
07	S.D. Ill.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Refer to panel or committee of judges within district. •Appoint an attorney to investigate and present to federal district court.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
07	E.D. Wis.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to U.S. Attorney for investigation.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
08	N.D. Iowa	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
08	S.D. Iowa	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.		
09	C.D. Cal.	•	•		
09	N.D. Cal.	•	•		
09	D. Nev.	•	•		
09	D. Or.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted.	•Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems		

Circuit	District	Indicate Approaches District Reported Using:	Indicate Approach District Reported Using Most Frequently:	For Approach Reported As Most Frequently Utilized, Indicate Whether in a Recent Case District Reported Dissatisfaction with:	
				Outcome	Procedure
			warranted.		
09	E.D. Wash.	<ul style="list-style-type: none"> •Refer to panel or committee of judges within district. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to panel or committee of judges within district. 		
09	W.D. Wash.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	<ul style="list-style-type: none"> • 		
09	D. N.M.I.	<ul style="list-style-type: none"> •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. •Appoint an attorney to investigate and present to federal district court. 	<ul style="list-style-type: none"> •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. •Appoint an attorney to investigate and present to federal district court. 		
10	D. N.M.	<ul style="list-style-type: none"> •Refer to a single judge in the district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to a single judge in the district. •Refer to panel or committee of attorneys in district for investigation and presentation to federal district court. 	X	
11	M.D. Ala.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		
11	S.D. Ala.	<ul style="list-style-type: none"> •Refer to a single judge in the district. 	<ul style="list-style-type: none"> •Refer to a single judge in the district. 		
11	N.D. Fla.	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. •Refer to U.S. Attorney for investigation. •Handle another way: used “order to show cause” to remove attorney from roster of attorneys authorized to practice within district without referring to state bar grievance process. 	<ul style="list-style-type: none"> •Refer the matter to the group or agency charged with enforcing state ethical standards for whatever action that agency deems warranted. 		
11	S.D. Ga.	<ul style="list-style-type: none"> •Refer to a single judge in the district. •Refer to panel or committee of judges within district. •Refer to U.S. Attorney for investigation. 	<ul style="list-style-type: none"> •Refer to a single judge in the district. 		

Table A-18

**Frequency of Attorney Misconduct Complaints
in the Federal District Courts
for Calendar Year 1996**

Circuit	District	# Complaints Received in 1996	# Complaints Formal Action was Taken on in 1996:
01	D. Me.	1	1
01	D. Mass.	3-5	0
01	D. N.H.	0	0
01	D. R.I.	0	0
01	D. P.R.	4	4
02	D. Conn.	14	14
02	E.D. N.Y.	4-5	4-5
02	N.D. N.Y.	0	0
02	S.D. N.Y.	26	19
02	W.D. N.Y.	1	1
02	D. Vt.	0	0
03	D. Del.	1	1
03	D. N.J.	32	32
03	E.D. Pa.	0	0
03	M.D. Pa.	not available	
03	W.D. Pa.	14	14
03	D. V.I.	5-6	5-6
04	D. Md.	13	11
04	E.D. N.C.	16	16
04	M.D. N.C.	0	0
04	W.D. N.C.	0	0
04	D. S.C.	3	1
04	E.D. Va.	0	0
04	W.D. Va.	0	0
04	N.D. W.Va.	0	0
04	S.D. W.Va.	1	1
05	E.D. La.	21	18
05	M.D. La.	0	0
05	W.D. La.	7	7
05	N.D. Miss.	11	6
05	S.D. Miss.	1	1
05	E.D. Tex.	9	9
05	N.D. Tex.	1	1
05	S.D. Tex.	7	2
05	W.D. Tex.	1	1
06	E.D. Ky.	13	8
06	W.D. Ky.	1	1
06	E.D. Mich.	1	1
06	W.D. Mich.	5	5
06	N.D. Ohio	1	1
06	S.D. Ohio	0	0
06	E.D. Tenn.	0	0
06	M.D. Tenn.	not available	
06	W.D. Tenn.	unknown	
07	C.D. Ill.	1	1
07	N.D. Ill.	8	8
07	S.D. Ill.	0	0
07	N.D. Ind.	0	0
07	S.D. Ind.	0	0
07	E.D. Wis.	0	0
07	W.D. Wis.	not provided	
08	E.D. Ark.	0	0
08	W.D. Ark.	3	3

Circuit	District	# Complaints Received in 1996	# Complaints Formal Action was Taken on in 1996:
08	N.D. Iowa	0	0
08	S.D. Iowa	5	5
08	D. Minn.	0	0
08	E.D. Mo.	0	0
08	W.D. Mo.	9	9
08	D. Neb.	11	11
08	D. N.D.	0	0
08	D. S.D.	0	0
09	D. Alaska	not provided	
09	D. Ariz.	4	4
09	C.D. Cal.	1	1
09	E.D. Cal.	1	1
09	N.D. Cal.	3	unknown
09	S.D. Cal.	0	0
09	D. Haw.	18	11
09	D. Idaho	0	0
09	D. Mont.	0	0
09	D. Nev.	0	0
09	D. Or.	0	0
09	E.D. Wash.	2	2
09	W.D. Wash.	not provided	
09	D. Guam	0	0
09	D. N.M.I.	not provided	
10	D. Colo.	9	5
10	D. Kan.	0	0
10	D. N.M.	5	5
10	E.D. Okla.	0	0
10	N.D. Okla.	2	0
10	W.D. Okla.	5	5
10	D. Utah	5	4
10	D. Wyo.	4	4
11	M.D. Ala.	0	0
11	N.D. Ala.	0	0
11	S.D. Ala.	2	0
11	M.D. Fla.	4	3
11	N.D. Fla.	0	0
11	S.D. Fla.	not provided	
11	M.D. Ga.	0	0
11	N.D. Ga.	1	1
11	S.D. Ga.	2	2
DC	D. D.C.	29	16